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**REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE
SIXTY-FIRST SESSION OF THE COMMISSION**

Draft report of the Commission

Rapporteur: Ms. Deirdre KENT (Canada)

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* Documents E/CN.4/2005/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council will be contained in documents E/CN.4/2005/L.11 and addenda.

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2005/14. Human rights and unilateral coercive measures

The Commission on Human Rights,

Recalling the purposes and the principles of the Charter of the United Nations,

Recalling also its resolution 2004/22 of 16 April 2004 and taking note of General Assembly resolution 59/188 of 20 December 2004,

Stressing that unilateral coercive measures and legislation are contrary to international law, international humanitarian law, the Charter of the United Nations and the norms and principles governing peaceful relations among States,

Recognizing the universal, indivisible, interdependent and interrelated character of all human rights and, in this regard, reaffirming the right to development as a universal and inalienable right and an integral part of all human rights,

Expressing its concern about the negative impact of unilateral coercive measures in the field of human rights, development, international relations, trade, investment and cooperation,

Recalling that the World Conference on Human Rights, held in Vienna from 14 to 25 June 1993, called upon States to refrain from any unilateral measure not in accordance with international law and the Charter of the United Nations that creates obstacles to trade relations among States and impedes the full realization of all human rights, and also severely threatens the freedom of trade,

Deeply concerned that, despite the resolutions adopted on this issue by the General Assembly, the Commission and United Nations conferences held in the 1990s and their five-year reviews, and contrary to norms of international law and the Charter of the United Nations, unilateral coercive measures continue to be promulgated, implemented and enforced, inter alia through resorting to war and militarism, with all their negative implications for the social-humanitarian activities and economic and social development of developing countries, including their extraterritorial effects, thereby creating additional obstacles to the full enjoyment of all human rights by peoples and individuals under the jurisdiction of other States,

Reaffirming that unilateral coercive measures are a major obstacle to the implementation of the Declaration on the Right to Development,

Recalling article 1, paragraph 2, common to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights which provides, inter alia, that in no case may a people be deprived of its own means of subsistence,

1. *Urges* all States to stop adopting or implementing unilateral coercive measures not in accordance with international law, international humanitarian law, the Charter of the United Nations and the norms and principles governing peaceful relations among States, in particular those of a coercive nature with extraterritorial effects, which create obstacles to trade relations among States, thus impeding the full realization of the rights set forth in the Universal Declaration of Human Rights and other international human rights instruments, in particular the right of individuals and peoples to development;

2. *Strongly objects* to the extraterritorial nature of those measures which, in addition, threaten the sovereignty of States and, in this context, calls upon all Member States neither to recognize these measures nor apply them, as well as to take effective administrative or legislative measures, as appropriate, to counteract the extraterritorial application or effects of unilateral coercive measures;

3. *Condemns* the continued unilateral application and enforcement by certain Powers of such measures as tools of political or economic pressure against any country, particularly against developing countries, with a view to preventing these countries from exercising their right to decide, of their own free will, their own political, economic and social systems;

4. *Reiterates its call* upon Member States that have initiated such measures to abide by the principles of international law, the Charter of the United Nations, the declarations of the United Nations and world conferences and relevant resolutions and to commit themselves to their obligations and responsibilities arising from the international human rights instruments to which they are parties by putting an immediate end to such measures;

5. *Reaffirms*, in this context, the right of all peoples to self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development;

6. *Recalls* that, according to the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, contained in the annex to General Assembly resolution 2625 (XXV) of 24 October 1970, and according to the relevant principles and provisions contained in the Charter of Economic Rights and Duties of States proclaimed by the General Assembly in its resolution 3281 (XXIX) of 12 December 1974, in particular article 32, no State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind;

7. *Reaffirms* that essential goods such as food and medicines should not be used as tools for political coercion and that under no circumstances should people be deprived of their own means of subsistence and development;

8. *Underlines* that unilateral coercive measures are one of the major obstacles to the implementation of the Declaration on the Right to Development and, in this regard, calls upon all States to avoid the unilateral imposition of economic coercive measures and the extraterritorial application of domestic laws which run counter to the principles of free trade and hamper the development of developing countries, as recognized by the Intergovernmental Group of Experts on the Right to Development in its report on its second session (E/CN.4/1998/29);

9. *Rejects* all attempts to introduce unilateral coercive measures, as well as the increasing trend in this direction, including through the enactment of laws with extraterritorial application which are not in conformity with international law;

10. *Recognizes* that the Declaration of Principles adopted at the first phase of the World Summit on the Information Society, held in Geneva in December 2003, strongly urged States to avoid and refrain from any unilateral measure in building the Information Society;

11. *Invites once again* all special rapporteurs and existing thematic mechanisms of the Commission in the field of economic, social and cultural rights to pay due attention, within the scope of their respective mandates, to the negative impact and consequences of unilateral coercive measures;

12. *Decides* to give due consideration to the negative impact of unilateral coercive measures in its task concerning the implementation of the right to development;

13. *Requests:*

(a) The United Nations High Commissioner for Human Rights, in discharging her functions in relation to the promotion and protection of human rights, to pay due attention and give urgent consideration to the present resolution;

(b) The Secretary-General to bring the present resolution to the attention of all Member States and to seek their views and information on the implications and negative effects of unilateral coercive measures on their populations, and to submit a report thereon to the Commission on Human Rights at its sixty-second session;

14. *Decides* to examine this question, on a priority basis, at its sixty-second session under the same agenda item.

50th meeting

14 April 2005

[Adopted by a recorded vote of 37 votes to 14,
with 2 abstentions. See chap. X.]

**2005/15. Adverse effects of the illicit movement and dumping
of toxic and dangerous products and wastes on the
enjoyment of human rights**

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and the Vienna Declaration and Programme of Action, particularly on the question of the human rights of everyone to life, the enjoyment of the

highest attainable standard of physical and mental health and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to clean water, food, adequate housing and work,

Recalling its earlier resolutions on the subject, in particular, resolutions 2003/20 of 22 April 2003 and 2004/17 of 16 April 2004,

Taking into consideration the Johannesburg Declaration on Sustainable Development (A/CONF.199/20 and Corr.1, chap. I, resolution 1, annex) and Plan of Implementation (ibid., resolution 2, annex), adopted by the World Summit on Sustainable Development held in Johannesburg, South Africa, in September 2002,

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

Underlining the importance of broad dissemination of information regarding legislation on this subject and the negative effects on health of the transportation and dumping of illicit products and toxic wastes,

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

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

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

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

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

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

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

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

1. *Takes note* of the report of the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights (E/CN.4/2005/45 and Add.1);
2. *Appreciates* the efforts made by the Special Rapporteur in carrying out his mandate with very limited resources for such a task;
3. *Categorically condemns* the illicit dumping of toxic and dangerous products and wastes in developing countries;
4. *Reaffirms* that illicit traffic in and dumping of toxic and dangerous products and wastes constitute a serious threat to human rights, including the right to life, the enjoyment of the highest attainable standard of physical and mental health and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to clean water, food, adequate housing and work;

5. *Urges* all Governments to take appropriate legislative and other measures, in line with their international obligations, to prevent the illegal international trafficking in toxic and hazardous products and wastes, the transfer of toxic and hazardous products and wastes through fraudulent waste-recycling programmes, and the transfer of polluting industries, industrial activities and technologies, which generate hazardous wastes, from developed to developing countries;

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

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

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

9. *Urges* the international community and the relevant United Nations bodies, in particular the United Nations Environment Programme and the secretariat for the Basel Convention, to continue to give appropriate support to developing countries, upon their request, in their efforts to implement the provisions of existing international and regional instruments controlling the transboundary movement and dumping of toxic and dangerous

products and wastes in order to protect and promote human rights, including the right to life, the enjoyment of the highest attainable standard of physical and mental health and other human rights affected by the illicit movement and dumping of toxic and dangerous products, including the rights to clean water, food, adequate housing and work;

10. *Urges* all Governments to ban the export of toxic and dangerous products, substances, chemicals, pesticides and persistent organic pollutants that are banned or severely restricted in their own countries;

11. *Calls upon* countries that have not done so to consider ratifying the Rotterdam Convention and the Stockholm Convention;

12. *Urges* States to strengthen the role of national environmental protection agencies and non-governmental organizations, local communities and associations, trade unions, workers and victims, and provide them with the legal and financial means to take necessary action;

13. *Urges* human rights bodies to be more systematic in addressing violations of rights associated with the practices of multinational companies, toxic waste and other environmental problems;

14. *Urges* the Special Rapporteur to continue to undertake, in consultation with the relevant United Nations bodies, organizations and the secretariats of relevant international conventions, a global, multidisciplinary and comprehensive study of existing problems and new trends of, and solutions to, illicit traffic in and dumping of toxic and dangerous products and wastes, in particular in developing countries, as well as in those sharing borders with developed countries, with a view to making concrete recommendations and proposals on adequate measures to control, reduce and eradicate these phenomena;

15. *Calls upon* countries to facilitate the work of the Special Rapporteur by providing information and inviting him to undertake country visits;

16. *Invites* the Special Rapporteur, in accordance with his mandate, to include in his report to the Commission at its sixty-second session comprehensive information on:

- (a) Persons killed, maimed or otherwise injured in developing countries through the illicit movement and dumping of toxic and dangerous products and wastes;
- (b) The question of the impunity of the perpetrators of these heinous crimes, including racially motivated discriminatory practices, and to recommend measures to bring them to an end that take into account the role of both Governments and private actors in ending impunity;
- (c) Human rights standards applicable to transnational corporations and other business enterprises that dump toxic and dangerous products and wastes;
- (d) The question of rehabilitation of and assistance to victims;
- (e) The scope of national legislation in relation to transboundary movement and dumping of toxic and dangerous products and wastes;
- (f) The question of fraudulent waste-recycling programmes, the transfer of polluting industries, industrial activities and technologies from the developed to developing countries and their new trends, including e-waste and dismantling of ships, ambiguities in international instruments that allow illegal movement and dumping of toxic and dangerous products and wastes, and any gaps in the effectiveness of the international regulatory mechanisms;

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

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

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

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

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

19. *Urges* transnational corporations and other business enterprises involved in the transfer of toxic and dangerous products to adhere to local and international health, environmental, labour and other standards in furtherance of human rights and to promote technology transfers to developing countries that can improve the management of toxic wastes and dangerous products and prevent their adverse impacts on local communities;

20. *Invites* the Commission on Sustainable Development to invite the Special Rapporteur to report to it on the impacts of dumping of toxic and hazardous wastes on human rights as it relates to the work of that Commission;

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

50th meeting

14 April 2005

[Adopted by a recorded vote of 37 votes to 13,
with 2 abstentions. See chap. X.]

2005/16. Human rights and extreme poverty

The Commission on Human Rights,

Recalling that, in accordance with the Universal Declaration of Human Rights, the International Covenants on Human Rights recognize that the ideal of free human beings enjoying freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his or her economic, social and cultural rights, as well as his or her civil and political rights,

Recalling in particular that article 25 of the Universal Declaration of Human Rights stipulates that everyone has the right to a standard of living adequate for the health and well-being of himself and of his or her family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his/her control,

Recalling also that the eradication of widespread poverty, including its most persistent forms, and the full enjoyment of economic, social and cultural rights and civil and political rights remain interrelated goals,

Reaffirming that the promotion of all human rights, including the right to development, and the elimination of extreme poverty can contribute substantially to the promotion and consolidation of democracy,

Deeply concerned that extreme poverty persists in all countries of the world, regardless of their economic, social and cultural situation, and that its extent and manifestations, such as hunger, trafficking in human beings, disease, lack of adequate shelter, illiteracy and hopelessness, are particularly severe in developing countries, though acknowledging the significant progress made in several parts of the world in combating extreme poverty,

Bearing in mind the relevant provisions of the Vienna Declaration and Programme of Action, adopted in June 1993 by the World Conference on Human Rights,

Recalling in particular that the World Conference reaffirmed that least developed countries committed to the process of democratization and economic reforms, many of which are in Africa, should be supported by the international community in order to succeed in their transition to democracy and economic development,

Reaffirming that the fight against extreme poverty must remain a high priority for the international community and bearing in mind in this regard the commitments made in the Copenhagen Declaration on Social Development and the Programme of Action of the World Summit for Social Development held in March 1995, at the World Summit on

Sustainable Development held in Johannesburg, South Africa, in September 2002, as well as the Declaration on the tenth anniversary of the World Summit for Social Development, adopted in February 2005,

Bearing in mind the commitments reaffirmed in the United Nations Millennium Declaration, particularly to spare no effort to fight against extreme poverty, including the commitment to halve by 2015 the proportion of the world's people whose income is less than one United States dollar a day and the proportion of people who suffer from hunger, and looking forward to the five-year review of the Declaration to be held in September 2005,

Recalling General Assembly resolution 50/107 of 20 December 1995, in which the Assembly proclaimed the first United Nations Decade for the Eradication of Poverty (1997-2006), and the report of the Secretary-General on the implementation of the Decade (A/55/407),

Bearing in mind the resolutions of the General Assembly on human rights and extreme poverty, in particular resolution 59/186 of 20 December 2004, and the importance they attach to giving men and women living in extreme poverty the wherewithal to organize and participate in all aspects of political, economic and social life,

Recalling the determination of States to eradicate the persistent and increasing burden of poverty on women, which was reaffirmed during the forty-ninth session of the Commission on the Status of Women (E/CN.6/2005/L.1),

Recalling also its resolution 2003/22 of 22 April 2003 on women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing, which recognizes that restrictions on women's equal access to credit and loans, factors preventing them from owning and inheriting land may contribute to the feminization of poverty,

Stressing the necessity of better understanding the causes and consequences of extreme poverty,

Stressing also that respect for all human rights, which are indivisible and interdependent, is crucial to the fight against extreme poverty,

Noting that the United Nations Educational, Scientific and Cultural Organization has chosen the eradication of poverty as a cross-cutting theme of its strategy for 2002-2007,

1. *Reaffirms* that:

(a) Extreme poverty and exclusion from society constitute a violation of human dignity and that urgent national and international action is therefore required to eliminate them;

(b) The right to life encompasses existence in human dignity with the minimum necessities of life;

(c) The existence of widespread absolute poverty inhibits the full and effective enjoyment of human rights and makes democracy and popular participation fragile;

(d) Concerted efforts to strengthen and consolidate national democratic institutions and governance are required in order to address the most pressing social needs of people living in poverty and to promote respect for human rights and fundamental freedoms;

(e) For peace and stability to prevail, national action and international action and cooperation are required for the promotion of a better life for all in larger freedom, a critical element of which is the eradication of poverty;

(f) Political commitment, social justice and equal access to social services are conditions sine qua non for the eradication of poverty, and welcomes in this connection the fact that States and international organizations have never been so aware of the urgency of winning the battle against extreme poverty;

(g) It is essential for States to foster participation by the poorest people in the decision-making process in the societies in which they live and in the realization of human rights, and for people living in poverty and vulnerable groups to be empowered to help plan, implement and evaluate policies that affect them, thus enabling them to become genuine partners in development;

(h) Special attention must be given to the plight of women, particularly older women and women head of household, and children, who often bear the greatest burden of extreme poverty;

2. *Recalls:*

(a) The Copenhagen Declaration on Social Development and the Programme of Action of the World Summit for Social Development;

(b) That, as stated in the Johannesburg Plan of Implementation, good governance within each country and at the international level is essential for sustainable development; at the domestic level, sound environmental, social and economic policies, democratic institutions responsive to the needs of the people, the rule of law, anti-corruption measures, gender equality and an enabling environment for investment are the basis for sustainable development;

(c) That to ensure the protection of the rights of all individuals, non-discrimination with regard to the poorest and the full exercise of all human rights and fundamental freedoms, a better understanding is needed of what is endured by people living in poverty, including women and children, and that thought must be given to the subject, drawing on the experience and ideas communicated by the poorest themselves and by those committed to working alongside them;

3. *Recognizes* the efforts of developing countries, in particular the commitment and determination of the African leaders, to seriously address the challenges of poverty, underdevelopment, marginalization, social exclusion, economic disparities, instability and insecurity, through initiatives such as the New Partnership for Africa's Development and other innovative mechanisms such as the World Solidarity Fund for the Eradication of Poverty, and calls upon developed countries, the United Nations and its specialized agencies, as well as the international financial institutions, to provide, through their operational programmes, new and additional financial resources, as appropriate, to support these initiatives;

4. *Welcomes* the increasing number of events associated with the celebration, on 17 October of each year, of the International Day for the Eradication of Poverty and the opportunity which these events provide to people and populations living in extreme poverty to make their voices heard;

5. *Expresses its appreciation:*

(a) That an integrated approach is being followed by the United Nations system in addressing the question of extreme poverty;

(b) That the international financial institutions have developed new policies to strengthen the human and social dimension of their action, and encourages them to continue to do so;

(c) For the initiatives taken in many countries by national education authorities to raise awareness among all children and young people of the existence of extreme poverty and of the urgent need for united action to enable all people, especially the poorest and most vulnerable in society, to exercise their human rights;

6. *Takes note* of the report of the independent expert (E/CN.4/2005/49);

7. *Takes note* of the ongoing work of the Sub-Commission on the Promotion and Protection of Human Rights in accordance with Commission resolution 2001/31 of 23 April 2001;

8. *Calls upon:*

(a) The Office of the United Nations High Commissioner for Human Rights to give high priority to the question of the relationship between extreme poverty and human rights and invites it to further pursue the work in this area;

(b) The Office of the United Nations High Commissioner for Human Rights, the independent expert on extreme poverty and the Sub-Commission to ensure coordination and

coherence of their work, in accordance with previous Commission resolutions, and to continue, in the most appropriate manner, their consultations with the poorest, civil society and interested States;

(c) The United Nations to strengthen poverty eradication as a priority throughout the United Nations system;

9. *Urges* States and encourages the private sector and international financial and development institutions, such as the World Bank and regional development banks, to promote the participation of the most vulnerable individuals or groups, in particular victims of racism, racial discrimination, xenophobia and related intolerance, in economic, cultural and social decision-making at all stages, particularly in the development, implementation and assessment of poverty-alleviation strategies, development projects, and trade and market assistance programmes;

10. *Invites* the treaty bodies monitoring the application of human rights instruments, especially the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women and the Committee on the Elimination of Racial Discrimination, to take into account, when considering the reports of States parties, the question of extreme poverty and human rights;

11. *Invites* the independent expert to pay special attention to the concrete experiences of involvement by people living in extreme poverty in the political decision-making and social processes;

12. *Also invites* the independent expert, in the framework of his ongoing work on employment and employability, to continue to focus on the various aspects of the link between human rights and extreme poverty;

13. *Requests* the independent expert to report to the Commission at its sixty-second session;

14. *Decides* to consider this question at its sixty-second session under the same agenda item.

50th meeting
14 April 2005
[Adopted without a vote. See chap. X.]

**2005/17. Globalization and its impact on the full
enjoyment of all human rights**

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, and expressing in particular the need to achieve international cooperation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction,

Reaffirming its resolutions 1999/59 of 28 April 1999, 2001/32 of 23 April 2001, 2002/28 of 22 April 2002, 2003/23 of 22 April 2003 and 2004/24 of 16 April 2004, and General Assembly resolutions 55/102 of 4 December 2000, 56/165 of 19 December 2001, 57/205 of 18 December 2002, 58/193 of 22 December 2003, 58/225 of 23 December 2003 and 59/184 of 20 December 2004,

Affirming that, while globalization offers great opportunities, at present its benefits are very unevenly shared and costs unevenly distributed, and that developing countries face special difficulties in meeting this challenge,

Underlining that the deep fault line between the rich and the poor that divides human society and the ever-increasing gap between the developed and the developing countries pose a major threat to global prosperity, security and stability,

Reaffirming the Declaration on the Right to Development, adopted by the General Assembly in its resolution 41/128 of 4 December 1986,

Reaffirming also the resolve expressed in the United Nations Millennium Declaration to ensure that globalization becomes a positive force for the people of the world,

Realizing that globalization is not merely an economic process, but that it also has social, political, environmental, cultural and legal dimensions, which have an impact on the full enjoyment of all human rights,

Realizing also the need to undertake a thorough, independent and comprehensive assessment of the social, environmental and cultural impact of globalization on societies,

Recognizing that globalization should be guided by the fundamental principles that underpin the corpus of human rights, such as equality, participation, accountability, non-discrimination, at both the national and international levels, respect for diversity, tolerance and international cooperation and solidarity,

Affirming in this regard that multilateral institutions have a unique role to play in meeting the challenges and opportunities presented by globalization and also affirming the need for these institutions to recognize, respect and protect all human rights,

Recalling the setback at the Fifth Ministerial Conference of the World Trade Organization held in Cancún, Mexico, in September 2003 and stressing the importance of redoubling efforts in working towards a successful and development-oriented conclusion of the negotiations of the Fourth Ministerial Conference, held in Doha in November 2001, as set out in the framework agreed in decision adopted by the General Council of the World Trade Organization on 1 August 2004 (the “July package”) and prior to the forthcoming Sixth Ministerial Conference to be held in the Hong Kong Special Administrative Region, China,

Recalling the Monterrey Consensus (A/CONF.198/11, chap. I, resolution 1, annex) adopted by the International Conference on Financing for Development, held in Monterrey, Mexico, in March 2002 and the Johannesburg Declaration on Sustainable Development (A/CONF.199/20 and Corr.1, chap.I, resolution 1, annex) adopted by the World Summit on Sustainable Development in September 2002, and taking note of the Declaration of Principles and the Plan of Action adopted at the first phase of the World Summit on the Information Society in December 2003,

Taking note with appreciation of the São Paulo Consensus adopted by the United Nations Conference on Trade and Development at its eleventh session and recognizing its contribution, in

terms of the three pillars of the mandate of the Conference on consensus-building, research analysis and technical assistance, towards addressing the growth and developmental challenges faced by the developing countries in the wake of globalization,

Taking note also of the report entitled “A Fair Globalization: Creating Opportunities for All” of the World Commission on the Social Dimension of Globalization of the International Labour Organization, as a contribution to the international dialogue towards fully inclusive and equitable globalization,

Bearing in mind the positive outcome of the high-level seminar on the right to development entitled “Global partnership for development” organized by the Office of the United Nations High Commissioner for Human Rights in Geneva on 9 and 10 February 2004 within the framework of the open-ended working group established to monitor and review progress made in the promotion and implementation of the right to development,

Welcoming the establishment of the high-level task force, within the framework of the Intergovernmental Working Group on the Right to Development, with the objective of assisting the Working Group to fulfil its mandate as contained in paragraph 10 (a) of the Commission on Human Rights resolution 1998/72 of 22 April 1998,

Welcoming also the participation in the task force, at its first meeting, of the representatives of the United Nations Development Programme, the United Nations Children’s Fund, the United Nations Conference on Trade and Development, the World Bank, the International Monetary Fund and the World Trade Organization,

Underlining the focus on globalization in the future work of the Sub-Commission on the Promotion and Protection of Human Rights, as reflected in the report of the Chairperson of the Sub-Commission at its fifty-fourth session (E/CN.4/2003/94), and requesting the Sub-Commission to intensify further its work in this area,

Deeply concerned at the inadequacy of measures to narrow the widening gap between the developed and the developing countries, which adversely affects the full enjoyment of human rights, particularly in the developing countries,

Underlining the shared responsibility to assist countries and peoples excluded from or disadvantaged by globalization,

1. *Recognizes* that, while globalization, by its impact on, inter alia, the role of the State, may affect human rights, the promotion and protection of all human rights is first and foremost the responsibility of the State;

2. *Reaffirms* that, in addition to States' separate responsibilities to their individual societies, they have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level as an essential element in the construction and shaping of an ethical foundation for globalization;

3. *Also reaffirms* the commitment to create an enabling environment, at both the national and international levels, that is conducive to development and to the elimination of poverty through, inter alia, good governance within each country and at the international level, transparency and accountability in the financial, monetary and trading systems, including in the private sector and transnational corporations, and the commitment to an open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial system to ensure that there is greater complementarity between the basic tenets of international trade law and international human rights law;

4. *Further reaffirms* that the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development in which all human rights and fundamental freedoms can be fully realized;

5. *Recognizes* that implementation of the Millennium Declaration and attainment of international development goals as identified at United Nations and world conferences, and of the Millennium Development Goals will contribute to the progressive realization of the right to development;

6. *Notes with appreciation* that the high-level task force established within the framework of the Intergovernmental Working Group on Right to Development at its next

meeting will examine Millennium Development Goal 8 on global partnership for development and suggest criteria for its periodic evaluation aimed at improving the effectiveness of global partnership with regard to the realization of the right to development;

7. *Strongly urges* the international community, at the High-Level Plenary Meeting to be held at the commencement of the sixtieth session of the General Assembly, to take stock of the slow progress with regard to the Millennium Development Goals, with a view to taking all necessary and appropriate measures, including enhanced official development assistance, the search for a durable solution to the external debt problem, market access, capacity-building, and dissemination of knowledge and technology, in order to achieve successful integration of developing countries in the global economy;

8. *Underlines* the importance of coherence between national and international efforts and between the international monetary, financial and trading systems as being fundamental to sound global economic governance;

9. *Emphasizes* that development should be at the centre of the international economic agenda and that coherence between national development strategies, on the one hand, and international obligations and commitments, on the other, will contribute to the creation of an enabling environment for development;

10. *Stresses* the need to broaden and strengthen the participation of developing countries in international economic decision-making and norm-setting with a view to ensuring equitable distribution of growth and development gains in a globalizing world economy;

11. *Recognizes* that only through broad and sustained efforts, including policies and measures at the global level to create a shared future based upon our common humanity in all its diversity, can globalization be made fully inclusive and equitable and have a human face, thus contributing to the full enjoyment of all human rights;

12. *Takes note with appreciation* of the analytical study of the United Nations High Commissioner for Human Rights on the fundamental principle of participation in the context of globalization (E/CN.4/2005/41), as requested in paragraph 8 of Commission

resolution 2004/24, and in this regard requests the High Commissioner to bring the report to the attention of the World Trade Organization and other relevant international organizations with a view to operationalizing its conclusions and recommendations;

13. *Requests* the High Commissioner to invite organs and bodies of the United Nations and other relevant multilateral bodies and international organizations, including the World Trade Organization, to consider, within their mandates, the report of the World Commission on the Social Dimension of Globalization;

14. *Underlines* that, in the absence of a framework based on the fundamental principles that underpin the corpus of human rights, such as equality, participation, accountability, non-discrimination, respect of diversity, tolerance and international cooperation and solidarity, globalization will continue on its asymmetrical course;

15. *Underlines once again* the need for the treaty bodies, special rapporteurs/representatives, independent experts and working groups of the Commission, within their mandates and where appropriate, to take into consideration the content of the present resolution and the report of the High Commissioner entitled “Globalization and its impact on the full enjoyment of human rights” (E/CN.4/2002/54);

16. *Decides* to consider this issue again at its sixty-second session.

*50th meeting
14 April 2005*

[Adopted by a recorded vote of 38 votes to 15. See chap. X.]

2005/18. The right to food

The Commission on Human Rights,

Recalling the Universal Declaration of Human Rights, which provides that everyone has the right to a standard of living adequate for her/his health and well-being, including food,

Recalling also the provisions of the International Covenant on Economic, Social and Cultural Rights in which the fundamental right of every person to be free from hunger is recognized,

Recalling further the Universal Declaration on the Eradication of Hunger and Malnutrition as well as the United Nations Millennium Declaration,

Bearing in mind the Rome Declaration on World Food Security and the Plan of Action of the World Food Summit, held in Rome from 13 to 17 November 1996, and bearing in mind also the Declaration of the World Food Summit: five years later - International Alliance against Hunger, held in Rome from 10 to 13 June 2002,

Welcoming the concrete recommendations contained in the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security adopted by the Council of the Food and Agricultural Organization of the United Nations,

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

Recalling all its previous resolutions in this regard, in particular resolution 2004/19 of 16 April 2004,

Recognizing that the problem of hunger and food insecurity has global dimensions and that they are likely to persist and even to increase dramatically in some regions unless urgent, determined and concerted action is taken, given the anticipated increase in the world's population and the strain on natural resources,

Reaffirming that a peaceful, stable and enabling political, social and economic environment, both at a national and an international level, is the essential foundation which will enable States to give adequate priority to food security and poverty eradication,

Reiterating, as did the Rome Declaration as well as the Declaration of the World Food Summit: five years later, that food should not be used as an instrument of political or economic

pressure, and reaffirming in this regard the importance of international cooperation and solidarity, as well as the necessity of refraining from unilateral measures not in accordance with international law and the Charter of the United Nations which endanger food security,

Convinced that each State must adopt a strategy consistent with its resources and capacities to achieve its individual goals in implementing the recommendations contained in the Rome Declaration and Plan of Action of the World Summit and, at the same time, cooperate regionally and internationally in order to organize collective solutions to global issues of food security in a world of increasingly interlinked institutions, societies and economies, where coordinated efforts and shared responsibilities are essential,

Stressing the importance of reversing the continuing decline of official development assistance devoted to agriculture and rural development, both in real terms and as a share of total official development assistance,

Expressing its deep concern at the number and scale of natural disasters, diseases and agricultural pests and their increasing impact in recent years, which have resulted in a massive loss of life and livelihood and threatened agricultural production and food security, in particular in developing countries,

Welcoming the solidarity and humanity expressed by the international community towards the victims and the Governments of the States that suffered huge losses of life and socio-economic and environmental damage as a result of the unprecedented tsunami disaster that struck the Indian Ocean and South-East Asian region on 26 December 2004,

1. *Reaffirms* that hunger constitutes an outrage and a violation of human dignity and, therefore, requires the adoption of urgent measures at the national, regional and international levels for its elimination;
2. *Also reaffirms* the right of everyone to have access to safe and nutritious food, consistent with the right to adequate food and the fundamental right of everyone to be free from hunger so as to be able fully to develop and maintain their physical and mental capacities;
3. *Considers* it intolerable that there are around 852 million undernourished people in the world, that every five seconds a child under the age of five dies, directly or indirectly, of

hunger or hunger-related disease somewhere in the world and that one person loses his/her eyesight every four minutes as a result of a lack of vitamin A when, according to the Food and Agriculture Organization of the United Nations, the planet could produce enough food to provide 2,100 kilocalories per person per day to 12 billion people, twice the world's present population;

4. *Expresses its concern* that women are disproportionately affected by hunger, food insecurity and poverty, in part as a result of gender inequality, that in many countries girls are twice as likely as boys to die from malnutrition and preventable childhood diseases and that it is estimated that almost twice as many women as men suffer from malnutrition and, in that sense, encourages the Special Rapporteur to continue mainstreaming a gender perspective in the fulfilment of his mandate;

5. *Stresses* the need to make efforts to mobilize and optimize the allocation and utilization of technical and financial resources from all sources, including external debt relief for developing countries, to reinforce national actions to implement sustainable food security policies;

6. *Recognizes* that the promises made at the World Food Summit in 1996 to halve the number of undernourished persons are not being fulfilled and that, on the contrary, global hunger increased yet again this year, and invites once again all international financial and developmental institutions, as well as the relevant United Nations agencies and funds, to give priority and provide necessary funding to help realize the aim to halve by the year 2015 the proportion of people who suffer from hunger, as well as to realize the right to food;

7. *Encourages* all States to take steps with a view to achieving progressively the full realization of the right to food, including steps to promote the conditions for everyone to be free from hunger and as soon as possible enjoy fully the right to food, as well as to elaborate and adopt national plans to combat hunger;

8. *Requests* all States and private actors, as well as international organizations within their respective mandates, to take fully into account the need to promote the effective realization of the right to food for all, including in the ongoing negotiations in different fields;

9. *Takes note* of the report of the Special Rapporteur on the right to food (E/CN.4/2005/47 and Add.1 and 2) and also takes note of his valuable work in the promotion of the right to food in all parts of the world;

10. *Calls upon* all Governments to cooperate with and assist the Special Rapporteur in his task, to supply all necessary information requested by him and to give serious consideration to responding favourably to the Special Rapporteur's requests to visit their countries, so as to enable him to fulfil his mandate even more effectively;

11. *Requests* the United Nations High Commissioner for Human Rights to provide all necessary human and financial resources for the effective fulfilment of the mandate of the Special Rapporteur;

12. *Welcomes* the work already done by the Committee on Economic, Social and Cultural Rights in promoting the right to adequate food, in particular its general comment No. 12 (1999) on the right to adequate food (article 11 of the International Covenant on Economic, Social and Cultural Rights), in which the Committee affirmed, inter alia, that the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of Human Rights and is also inseparable from social justice, requiring the adoption of appropriate economic, environmental and social policies, at both the national and international levels, oriented to the eradication of poverty and the fulfilment of all human rights for all;

13. *Recalls* general comment No. 15 (2002) on the right to water (articles 11 and 12 of the Covenant) adopted by the Committee on Economic, Social and Cultural Rights, in which the Committee notes, inter alia, the importance of ensuring sustainable water resources for human consumption and agriculture in the realization of the right to adequate food;

14. *Welcomes* the meeting of world leaders for action against hunger and poverty, convened by the Presidents of Brazil, Chile and France and the Prime Minister of Spain, with the support of the Secretary-General, and the resulting New York Declaration on Action against Hunger and Poverty, which has been supported by more than one hundred countries to date, and recommends the continuation of efforts aimed at identifying additional sources of financing for the fight against hunger and poverty;

15. *Also welcomes* the adoption by the Council of the Food and Agricultural Organization of the United Nations of the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, which marks an important step in the progress towards the promotion, protection and implementation of human rights for all;

16. *Requests* the Special Rapporteur to submit an interim report to the General Assembly at its sixtieth session and to report to the Commission at its sixty-second session on the implementation of the present resolution;

17. *Invites* Governments, relevant United Nations agencies, funds and programmes, treaty bodies, civil society actors, including non-governmental organizations, as well as the private sector, to cooperate fully with the Special Rapporteur in the fulfilment of his mandate, inter alia through the submission of comments and suggestions on ways and means of realizing the right to food;

18. *Decides* to continue its consideration of this matter at its sixty-second session, under the same agenda item.

*50th meeting
14 April 2005*

[Adopted by a recorded vote of 52 votes to 1. See chap. X.]

**2005/19. Effects of economic reform policies and foreign
debt on the full enjoyment of all human rights**

The Commission on Human Rights,

Recalling its previous resolutions on this matter, in particular resolution 2004/18 of 16 April 2004,

Recalling also that the purpose of the Universal Declaration of Human Rights is the full promotion and protection of human rights and fundamental freedoms, that everyone is entitled to

a social and international order in which the rights and freedoms set forth in the Universal Declaration can be fully realized and that in the United Nations Millennium Declaration all States resolved to respect fully and uphold the Universal Declaration of Human Rights,

Stressing that one of the purposes of the United Nations is to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character,

Emphasizing that the World Conference on Human Rights agreed to call upon the international community to make all efforts to help alleviate the external debt burden of developing countries in order to supplement the efforts of the Governments of such countries to attain the full realization of economic, social and cultural rights of their people,

Stressing the determination expressed in the Millennium Declaration to deal comprehensively and effectively with the debt problems of low- and middle-income developing countries, through various national and international measures designed to make their debt sustainable in the long term,

Noting that the total debt stock of the developing countries rose from 1,421 billion United States dollars in 1990 to 2,384 billion dollars in 2002,

Noting also that, in 2002, developing countries as a whole made net outward transfers of financial resources for the sixth consecutive year,

Acknowledging that there is greater acceptance that the increasing debt burden faced by the most indebted developing countries, in particular the least developed countries, is unsustainable and constitutes one of the principal obstacles to achieving progress in people-centred sustainable development and poverty eradication and that for many developing countries, as well as countries with economies in transition, excessive debt servicing has severely constrained their capacity to promote social development and provide basic services to realize economic, social and cultural rights,

Expressing its concern that, despite repeated rescheduling of debt, developing countries continue to pay out more each year than the actual amount they receive in official development assistance,

Affirming that the debt burden further complicates the numerous problems facing developing countries, contributes to extreme poverty, is an obstacle to sustainable human development and is thus a serious impediment to the realization of all human rights,

1. *Takes note with appreciation* of the report of the independent expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of human rights, particularly economic, social and cultural rights (E/CN.4/2005/42), and stresses that structural adjustment reform programmes have serious implications for the ability of the developing countries to abide by the Declaration on the Right to Development and to formulate national development policies that aim to improve the economic, social and cultural rights of their citizens;

2. *Welcomes* the proposals of the independent expert for elements of basic principles and for action at the national and international levels in the development of draft general guidelines to be followed by States and by private and public, national and international financial institutions in the decision-making on and execution of debt repayments and structural reform programmes, including those arising from foreign debt relief, and encourages the independent expert to continue to take into account in this regard the relevant past and new initiatives of the General Assembly, the Sub-Commission on the Promotion and Protection of Human Rights and the Commission on Human Rights;

3. *Recalls* that every State has the primary responsibility to promote the economic, social and cultural development of its people, and to this end has the right and responsibility to choose its means and goals of development and should not be subject to external specific prescriptions for economic policy;

4. *Recognizes* that the structural adjustment reform programmes limit public expenditure, imposing fixed expenditure ceilings and give inadequate attention to the provision of social services, and that only a few countries manage to achieve sustainable higher growth under these programmes;

5. *Expresses its concern* at the fact that the options for macroeconomic policy of developing countries are constrained by demands for adjustment and that many countries, particularly in sub-Saharan Africa, still carry very high external debt burdens relative to their gross national product;

6. *Also expresses its concern* that the level of implementation and the reduction of the overall debt stock under the enhanced Heavily Indebted Poor Countries Initiative are still low, and that the Initiative is not intended to offer a comprehensive solution to the long-term debt burden;

7. *Reiterates its conviction* that for the heavily indebted poor countries to achieve debt sustainability, long-term growth and poverty reduction goals, the debt relief under the Initiative will not be sufficient and that additional resource transfers in the form of grants and concessional loans, as well as removal of trade barriers and better prices for their exports, would be required to ensure sustainability and permanent exit from debt overhang;

8. *Regrets* the absence of mechanisms to find appropriate solutions to the unsustainable foreign debt burden of middle-income and low-income heavily indebted countries, and that until now there has been little headway made in redressing the unfairness of the current system of debt resolution, which continues to place the interests of the lenders above those of indebted countries and the poor within them, and therefore calls for an intensification of efforts to devise effective and equitable mechanisms to cancel or reduce substantially the foreign debt burden of all developing countries, in particular those severely affected recently by the devastation of natural disasters, such as tsunamis and hurricanes, as well as by armed conflicts;

9. *Acknowledges* that in the least developed countries and in several low- and middle-income countries unsustainable levels of external debt continue to create a considerable barrier to economic and social development and increase the risk that the Millennium Development Goals regarding development and poverty reduction will not be attained;

10. *Recognizes* that debt relief can play a key role in liberating resources that should be directed towards activities consistent with attaining sustainable growth and development, including poverty reduction and the achievement of the development goals, including those set out in the United Nations Millennium Declaration, and therefore that debt relief measures, where

appropriate, should be pursued vigorously and expeditiously, ensuring that they do not replace alternative sources of financing and that they are accompanied by an increase in official development assistance;

11. *Recalls once again* the call on industrialized countries, as expressed in the Millennium Declaration, to implement the enhanced programme of debt relief for the heavily indebted poor countries without further delay and to agree to cancel all official bilateral debts of those countries in return for their making demonstrable commitments to poverty reduction;

12. *Urges* the international community, including the United Nations system, and the Bretton Woods institutions, as well as the private sector, to take appropriate measures and actions for the implementation of the pledges, commitments, agreements and decisions of the major United Nations conferences and summits, including the Millennium Summit, the World Conference on Human Rights, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the World Conference on Sustainable Development and the International Conference on Financing for Development, in particular those relating to the question of the external debt problem of developing countries, in particular of heavily indebted poor countries, least developed countries and countries with economies in transition;

13. *Recalls* the pledge, contained in the Political Declaration contained in the annex to resolution S-24/2, adopted on 1 July 2000 by the General Assembly at its twenty-fourth special session, to find effective, equitable, development-oriented and durable solutions to the external debt and debt-servicing burdens of developing countries;

14. *Stresses* the need for the economic reform programmes arising from foreign debt to be country-driven and for any negotiations and conclusion of debt relief and new loan agreements to be formulated with public knowledge and transparency, with legislative frameworks, institutional arrangements and mechanisms for consultation being established to ensure the effective participation of all components of society, including people's legislative bodies and human rights institutions, and particularly of the most vulnerable or disadvantaged, in the design, application and evaluation of strategies, policies and programmes, as well as in the follow-up to and systematic national supervision of their implementation, and for macroeconomic and financial policy issues to be integrated, on an equal footing and in a

consistent way, in the realization of the broader social development goals, taking into account the national context and the priorities and needs of the debtor countries to allocate resources in a way that ensures balanced development conducive to the overall realization of human rights;

15. *Also stresses* that the economic reform programmes arising from foreign debt should maximize the policy space of developing countries in pursuing their national development efforts, taking into account the views of relevant stakeholders in a way that ensures balanced development conducive to overall realization of all human rights;

16. *Further stresses* that the economic programmes arising from foreign debt relief and cancellation must not reproduce past structural adjustment policies that have not worked, such as dogmatic demands for privatization and reduced public services;

17. *Calls upon* States, the International Monetary Fund and the World Bank to continue to cooperate closely to ensure that additional resources made available through the Heavily Indebted Poor Countries Initiative, the Global Fund to Fight AIDS, Tuberculosis and Malaria and other new initiatives are absorbed in the recipient countries without affecting the ongoing programmes;

18. *Reaffirms* that the exercise of the basic rights of the people of debtor countries to food, housing, clothing, employment, education, health services and a healthy environment cannot be subordinated to the implementation of structural adjustment policies, growth programmes and economic reforms arising from the debt;

19. *Requests* the independent expert to explore further, in his analytical annual report to the Commission, the interlinkages with trade and other issues, including HIV/AIDS, when examining the impact of structural adjustment and foreign debt and also to contribute, as appropriate, to the process entrusted with the follow-up to the International Conference on Financing for Development, with a view to bringing to its attention the issue of the effects of structural adjustment and foreign debt on the enjoyment of human rights, particularly economic, social and cultural rights;

20. *Recalls* its requests to the independent expert, in the discharge of his mandate, to present to the Commission at its sixty-second session a final draft of general guidelines to be

followed by States and by private and public, national and international financial institutions in the decision-making on and execution of debt repayments and structural reform programmes, including those arising from foreign debt relief, to ensure that compliance with the commitments derived from foreign debt will not undermine the obligations for the realization of fundamental economic, social and cultural rights, as provided for in the international human rights instruments;

21. *Requests* the independent expert to seek the views and suggestions of States, international organizations, United Nations agencies, fund and programmes, regional economic commissions, international and regional financial institutions and non-governmental organizations on the draft general guidelines and his proposal of possible elements for consideration and urges them to respond to his requests;

22. *Decides* to convene an expert consultation of three working days with the participation of experts from the United Nations Development Programme, the United Nations Population Fund, the United Nations Conference on Trade and Development, the Food and Agriculture Organization of the United Nations, the International Labour Organization, the World Health Organization and other relevant United Nations agencies, the Committee on Economic, Social and Cultural Rights, the regional economic commissions, the international financial institutions, the special rapporteurs on economic, social and cultural rights, creditor and debtor States and non-governmental organizations to contribute to the independent expert's work to finalize the draft general guidelines;

23. *Also decides* to replace the phrase "effects of structural adjustment policies" by "effects of economic reform policies" in the title of the mandate of this current special procedure;

24. *Encourages* the independent expert to continue to cooperate, in accordance with his mandate, with the Committee on Economic, Social and Cultural Rights, special rapporteurs, independent experts and members of the expert working groups of the Commission and the Sub-Commission related to economic, social and cultural rights and the right to development, in his work towards the elaboration of the draft general guidelines;

25. *Requests* the independent expert to report to the General Assembly on the issue of the effects of economic reform policies and foreign debt on the full enjoyment of human rights, particularly economic, social and cultural rights;

26. *Also requests* the independent expert to exchange views with the Sub-Commission expert charged with preparing a working paper on the effects of debt on human rights;

27. *Requests* the Secretary-General to provide the independent expert with all necessary assistance, in particular the staff and resources required to carry out his functions, as well as to facilitate his participation in and contribution to the follow-up process of the International Conference on Financing for Development, including in the multi-stakeholder consultations to be organized in 2005 on issues relevant to his mandate;

28. *Urges* Governments, international organizations, international financial institutions, non-governmental organizations and the private sector to cooperate fully with the independent expert in the discharge of his mandate;

29. *Urges* States, international financial institutions and the private sector to take urgent measures to alleviate the debt problem of those developing countries particularly affected by HIV/AIDS, so that more financial resources can be released and used for health care, research and treatment of the population in the affected countries;

30. *Reiterates its view* that, in order to find a durable solution to the debt problem and for the consideration of any new debt resolution mechanism, there is a need for a broad political dialogue between creditor and debtor countries and the multilateral financial institutions, within the United Nations system, based on the principle of shared interests and responsibilities;

31. *Reiterates its request* to the United Nations High Commissioner for Human Rights to pay more attention to the problem of the debt burden of developing countries, in particular of the least developed countries, and especially the social impact of the measures arising from foreign debt;

32. *Decides* to continue the consideration of this matter at its sixty-second session under the same agenda item.

*50th meeting
14 April 2005*

[Adopted by a recorded vote of 33 votes to 14,
with 6 abstentions. See chap. X.]

**2005/20. Promotion of the enjoyment of the cultural rights of everyone
and respect for different cultural identities**

The Commission on Human Rights,

Recalling the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, as well as other pertinent human rights instruments,

Recalling also its resolution 2004/20 of 16 April 2004,

Noting that numerous declarations within the United Nations system promote respect for cultural diversity, as well as for international cultural cooperation, in particular the Declaration of the Principles of International Cultural Cooperation and the United Nations Educational, Scientific and Cultural Organization Universal Declaration on Cultural Diversity, adopted by its General Conference in 1966 and 2001 respectively,

Emphasizing the responsibilities of all States, in conformity with the Charter of the United Nations, to develop and encourage respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Stressing the importance of the promotion of the cultural rights of everyone and of respect for different cultural identities,

Convinced that international cooperation in promoting and encouraging respect for human rights and fundamental freedoms for all should be based on a profound understanding of the variety of problems existing in different societies, on full respect for their economic, social and cultural realities and on the full realization and recognition of the universality of all human rights and the principles of freedom, justice, equality and non-discrimination,

Reaffirming the interdependence and the mutually reinforcing nature of democracy, development and respect for human rights and fundamental freedoms,

Reaffirming also that cultural diversity is a cherished asset for the advancement and welfare of humanity at large and should be valued, enjoyed, genuinely accepted and embraced as a permanent feature which enriches our societies,

Recalling the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted on 14 November 1970 by the General Conference of the United Nations Educational, Scientific and Cultural Organization, and the Convention on Stolen or Illegally Exported Cultural Objects, adopted on 24 June 1995 by the International Institute for the Unification of Private Law,

Aware of the importance attached by the countries of origin to the return of cultural property which is of fundamental spiritual and cultural value to them, so that they may constitute collections representative of their cultural heritage,

Expressing its concern about the illicit traffic of cultural property and its damage to the cultural heritage of nations,

Expressing its determination to prevent and mitigate cultural homogenization in the context of globalization, through increased intercultural exchange guided by the promotion and protection of cultural diversity,

1. *Reaffirms* that cultural rights are an integral part of human rights, which are universal, indivisible and interdependent;
2. *Reiterates* that everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits;
3. *Also reiterates* that everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he/she is the author;

4. *Affirms* that each culture has a dignity and value which must be respected and preserved and that every people has the right and the duty to develop its culture;
5. *Recognizes* that States have the primary responsibility for the promotion of the full enjoyment of cultural rights by everyone and for the enhancement of respect for different cultural identities;
6. *Stresses* that cultural cooperation shall contribute to the establishment of stable, long-term relations between peoples, which should be subjected as little as possible to the strains which may arise in international life;
7. *Recognizes* that the promotion and protection of the full enjoyment of cultural rights by everyone and the respect for different cultural identities are vital elements for the protection of cultural diversity in the context of the ongoing process of globalization;
8. *Reaffirms* that all peoples have the right of self-determination, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development;
9. *Underlines* the importance of cultural cooperation for all peoples and all nations, which should share with one another their knowledge and skills, and that international cooperation, while promoting the enrichment of all cultures through its beneficent action, should respect the distinctive character of each;
10. *Emphasizes* that cultural cooperation is especially concerned with the moral and intellectual education of young people in a spirit of friendship, international understanding and peace and should foster awareness among States of the need to stimulate talent and promote the training of the rising generations in the most varied sectors;
11. *Recognizes* that the promotion and protection of cultural diversity imply a commitment to human rights and fundamental freedoms guaranteed by international law and advances the application and the enjoyment of cultural rights by everyone;

12. *Also recognizes* that broad dissemination of ideas and knowledge, based on the freest exchange and discussion, is essential to creative activity, the pursuit of truth and the development of the personality of everyone and the identity of all peoples;

13. *Further recognizes* that the promotion of the cultural rights of everyone, of respect for the distinct cultural identities of peoples and of protection of the cultural diversity of humanity advances the implementation and enjoyment of all human rights by all;

14. *Stresses* that, in the face of current imbalances in flows and exchanges of cultural goods and services at the global level, it is necessary to reinforce international cooperation and solidarity aimed at enabling all countries, especially developing countries and countries in transition, to establish cultural industries that are viable and competitive at national and international levels;

15. *Underlines* that market forces alone cannot guarantee the preservation and promotion of cultural diversity, which is the key to sustainable human development, and from this perspective recognizes that the pre-eminence of public policy, in partnership with the private sector and civil society, must be reaffirmed;

16. *Calls upon* States and intergovernmental and non-governmental organizations to take appropriate measures and action for the implementation of the present resolution;

17. *Expresses its appreciation* to States and intergovernmental and non-governmental organizations that responded to the consultations held pursuant to its resolutions 2002/26 of 22 April 2002, 2003/26 of 22 April 2003 and 2004/20 of 16 April 2004;

18. *Underlines* that those consultations highlighted the importance for the Commission to enhance the visibility and understanding of cultural rights and the issue of cultural diversity, and confirmed support for the concept that the creation of a thematic procedure could contribute to the achievement of that objective;

19. *Reaffirms* that the objective of the establishment of a thematic procedure on the promotion of the enjoyment of the cultural rights of everyone and respect for different cultural identities is not to develop a new monitoring mechanism, but to appoint an independent expert

who could elaborate concrete proposals and recommendations on the implementation of the present resolution, taking into account the work already done in this field by other bodies, organs and organizations of the United Nations system;

20. *Requests* the United Nations High Commissioner for Human Rights to consult States and intergovernmental and non-governmental organizations on the particularities and scope of the mandate of an independent expert on the promotion of the enjoyment of the cultural rights of everyone and respect for different cultural identities, the basis of which would be the comprehensive implementation of the present resolution, and to report on the results of those consultations to the Commission at its sixty-second session;

21. *Underlines* that it is important to avoid overlapping with the activities of the United Nations Educational, Scientific and Cultural Organization and other bodies and organizations of the United Nations system when establishing the mandate of the independent expert and to bear in mind the significance of encouraging synergy between all actors dealing with cultural rights and the issue of cultural diversity;

22. *Decides* to continue its consideration of this matter at its sixty-second session, under the same agenda item.

*50th meeting
14 April 2005*

[Adopted by a recorded vote of 39 votes to 1,
with 13 abstentions. See chap. X.]

2005/21. The right to education

The Commission on Human Rights,

Recalling its previous resolutions on the right to education, inter alia, resolution 2004/25 of 16 April 2004,

Recalling also that everyone shall enjoy the human right to education, which is enshrined, inter alia, in the Universal Declaration of Human Rights, the International Covenant

on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child,

Recalling further the Convention against Discrimination in Education adopted on 14 December 1960 by the United Nations Educational, Scientific and Cultural Organization, which prohibits any discrimination that has the purpose or effect of nullifying or impairing equality of treatment in education,

Bearing in mind the relevant provisions of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities adopted by the General Assembly on 18 December 1992,

Recalling the Dakar Framework for Action adopted at the World Education Forum, held in Dakar in April 2000 and the goals agreed upon at its adoption,

Recalling also that in the United Nations Millennium Declaration, it is resolved that children everywhere, boys and girls alike, will be able to complete a full course of primary schooling and that girls and boys will have equal access to all levels of education by 2015, and emphasizing the importance of realizing the right to education in attaining the Millennium Development Goals,

Affirming that the realization of the right to education, especially for girls, contributes to the eradication of poverty,

Welcoming the attention given to education in the Durban Declaration and Programme of Action adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,

Recalling the outcome document of the twenty-seventh special session of the General Assembly on children, entitled “A world fit for children”, annexed to its resolution S-27/2 of 10 May 2002, and its emphasis on education as a human right and the provision of quality education as a key factor in reducing poverty and child labour and promoting democracy, peace, tolerance and development,

Deeply concerned that some 120 million children, two thirds of whom are girls, have no access to education,

Recognizing the important role that educational institutions can play in preventing and detecting all forms of abuse and physical or mental violence against children,

Affirming that good governance and the rule of law will assist all States to promote and protect human rights, including the right to education,

Bearing in mind the need for adequate financial resources so that everyone can realize their right to education, and the importance in this regard of national resource mobilization, as well as international cooperation,

1. *Welcomes* the report of the Special Rapporteur on the right to education (E/CN.4/2005/50) and the report of the Secretary-General on economic, social and cultural rights (E/CN.4/2005/39);

2. *Notes with interest* the work carried out by the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child in the promotion of the right to education, notably general comments No. 11 (1999) on plans of action for primary education (article 14 of the International Covenant on Economic, Social and Cultural Rights) and No. 13 (1999) on the right to education (article 13 of the Covenant), adopted by the Committee on Economic, Social and Cultural Rights, general comment No. 1 (2001) on the aims of education (article 29, paragraph 1, of the Convention on the Rights of the Child) and the recommendations concerning the right to education issued as a result of the day of general discussion on implementing child rights in early childhood, adopted by the Committee on the Rights of the Child at its thirty-seventh session (see CRC/C/143);

3. *Welcomes* the proclamation by the General Assembly of the World Programme for Human Rights Education, which began on 1 January 2005, and the continued progress of the United Nations Literacy Decade launched on 13 February 2003;

4. *Commends* the collaboration between the United Nations Educational, Scientific and Cultural Organization and the Office of the United Nations High Commissioner for Human Rights;

5. *Welcomes* the second meeting of the Joint Expert Group of the United Nations Educational, Scientific and Cultural Organization and the Committee on Economic, Social and Cultural Rights on the Monitoring of the Right to Education, held in May 2004 to continue discussions on how collaboration between the United Nations Educational, Scientific and Cultural Organization and the Economic and Social Council in monitoring and promoting the right to education could be further strengthened, and encourages continued collaboration between these two bodies;

6. *Also welcomes* the contribution of the United Nations Children's Fund, as well as that of the United Nations Educational, Scientific and Cultural Organization, towards attaining the Millennium Development Goal of eliminating gender disparity in primary and secondary education, preferably by 2005, and at all levels of education no later than 2015, especially in the twenty-five countries that are experiencing the greatest difficulties in meeting the target;

7. *Urges* all States:

(a) To give full effect to the right to education and to guarantee that this right is recognized and exercised without discrimination of any kind;

(b) To take all appropriate measures to eliminate obstacles limiting effective access to education, notably by girls, including pregnant girls, children living in rural areas, children belonging to minority groups, indigenous children, migrant children, refugee children, internally displaced children, children affected by armed conflicts, children with disabilities, children affected by infectious diseases, including HIV/AIDS, sexually exploited children, children deprived of their liberty, children living in the street, working children and orphaned children:

- Taking all necessary legislative measures to prohibit explicitly discrimination in education on the basis of race, colour, descent, national, ethnic or social origin, sex, language, religion, political or other opinion, property, disability, birth or other status which has the purpose or effect of nullifying or impairing equality of treatment in education;

(c) To improve all aspects of the quality of education aimed at ensuring excellence of all so that recognized and measurable learning outcomes are achieved by all, especially in literacy, numeracy and essential life skills, and, in this regard, to emphasize the development of quality indicators and monitoring instruments, to promote a sound school environment, school health, education on reproductive health issues, preventive education against HIV/AIDS and drug abuse, and science and technology education, and to carry out surveys and build up a knowledge base in order to provide advice on the use of information and communication technologies in education;

(d) To promote the renewal and expansion of basic formal education of good quality, which includes both early childhood care and education and primary education, using inclusive and innovative approaches to increase access and attendance for all, for example by providing a minimum monthly income to the families of poor children attending school on a regular basis or free meals for children attending school;

(e) To mainstream human rights education in educational activities, in order to strengthen respect for human rights and fundamental freedoms;

(f) To enhance the status, morale and professionalism of teachers and to address shortages of qualified teachers;

(g) To recognize and promote lifelong learning for all, both in formal and in informal settings;

(h) To ensure progressively and on the basis of equal opportunity that primary education is compulsory, accessible and available free to all;

(i) To adopt all necessary measures to close the gap between the school-leaving age and the minimum age for employment, including by raising the minimum age for employment and/or raising the school-leaving age when necessary, and to ensure access to free basic education and, wherever possible and appropriate, vocational training for all children liberated from the worst forms of child labour;

(j) To adopt effective measures to encourage regular attendance at school and reduce school dropout rates;

(k) To support domestic literacy programmes, including vocational education components and non-formal education, in order to reach marginalized children, youth and adults, especially girls and women, to ensure that they enjoy the right to education and acquire the life skills necessary to overcome poverty and exclusion;

(l) To support the implementation of plans and programmes of action to ensure quality education and improved enrolment and retention rates for boys and girls and the elimination of gender discrimination and gender stereotypes in educational curricula and materials, as well as in the process of education;

(m) To adapt education, if necessary, in order to suit the specific needs of women, girls and teenagers;

(n) To take all appropriate legislative, administrative, social and educational measures, in accordance with the best interest of the child, to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse in schools, and in this context to take measures to eliminate corporal punishment in schools, and to incorporate in their legislation appropriate sanctions for violations and the provision of redress and rehabilitation for victims;

(o) To consider undertaking or supporting studies on best practices for elaborating and implementing strategies for improving the quality of education and meeting the learning needs of all;

(p) To give appropriate priority to the collection of quantitative and qualitative data relating to disparities in education, including gender disparities;

(q) To submit information on best practices for the elimination of discrimination in access to education, as well as for the promotion of quality education, to the Special Rapporteur;

(r) To ensure that no child is prevented from receiving free primary education on account of his or her disability;

(s) To contribute to efforts to mobilize resources by the international community to assist all States to achieve the goal of education for all children by 2015;

8. *Invites* the Special Rapporteur, within his mandate:

(a) To gather, request, receive and exchange information from all relevant sources, including Governments, intergovernmental organizations and non-governmental organizations, on the realization of the right to education, and to make recommendations on appropriate measures to promote and protect the realization of the right to education;

(b) To intensify efforts aimed at identifying ways and means to overcome obstacles and difficulties in the realization of the right to education;

(c) To pursue the collaboration with the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child and the cooperation with the United Nations Children's Fund, the United Nations Educational, Scientific and Cultural Organization, the International Labour Organization and the Office of the United Nations High Commissioner for Refugees, and the dialogue with the World Bank;

(d) To cooperate with other special rapporteurs, representatives, experts and members and chairpersons of working groups of the Commission, and United Nations bodies, including human rights treaty bodies;

(e) To review the interdependence and interrelatedness of the right to education with other human rights;

(f) To apply a gender perspective in his work;

9. *Reaffirms* the importance of developing further the regular dialogue between the United Nations Children's Fund, the United Nations Educational, Scientific and Cultural Organization, other partners that pursue the goals of the Dakar Framework for Action and the Special Rapporteur, with a view to integrating further the right to education into the operational activities of the United Nations system, invites them to pursue that dialogue and reiterates its invitation to the United Nations Children's Fund and the United Nations Educational, Scientific and Cultural Organization to submit to the Commission information pertaining to their activities in promoting primary education, with specific reference to women and children, particularly girls;

10. *Requests* all States to continue cooperating with the Special Rapporteur with a view to facilitating his tasks in the discharge of his mandate, and to respond favourably to his requests for information and visits;

11. *Invites* the United Nations Development Programme, the United Nations Children's Fund and the United Nations Educational, Scientific and Cultural Organization to assist the Special Rapporteur in promoting further the development of indicators on the right to education, in cooperation with States and relevant international organizations and non-governmental organizations;

12. *Requests* the Special Rapporteur to report to the Commission at its sixty-second session;

13. *Requests* the Secretary-General to provide the Special Rapporteur with all the assistance necessary for the execution of his mandate;

14. *Decides* to consider the right to education at its sixty-second session under the same agenda item.

*51st meeting
15 April 2005*

[Adopted without a vote. See chap. X.]

**2005/22. Question of the realization in all countries of
economic, social and cultural rights**

The Commission on Human Rights,

Guided by the principles relating to economic, social and cultural rights enshrined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights,

Recalling that in the Vienna Declaration and Programme of Action adopted in June 1993 by the World Conference on Human Rights (A/CONF.157/23), the World Conference encouraged the Commission to continue the examination of optional protocols to the International Covenant on Economic, Social and Cultural Rights,

Recalling also previous resolutions of the Commission on Human Rights and of the Sub-Commission for the Promotion and Protection of Human Rights on the realization of economic, social and cultural rights,

Taking note with interest of the ongoing new efforts towards the realization of economic, social and cultural rights, and considering that, to ensure the realization of economic, social and cultural rights and the removal of obstacles thereto at all levels, additional efforts should be examined,

1. *Takes note with interest* of the report of the Secretary-General on the implementation of its resolution 2004/29 of 19 April 2004 (E/CN.4/2005/39) and of all other relevant reports of the United Nations High Commissioner for Human Rights on economic, social and cultural rights and the activities of intergovernmental and non-governmental organizations in that regard;

2. *Recalls* the entry into force of the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, of the International Labour Organization Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) and of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and calls upon all States to consider signing and ratifying these instruments and upon the States parties to implement them fully;

3. *Notes with interest:*

(a) The work carried out by the Committee on Economic, Social and Cultural Rights to assist States parties in fulfilling their obligations, including through:

(i) The development and adoption of general comments, in order to assist in clarifying the content and scope of the articles of the International Covenant on Economic, Social and Cultural Rights;

- (ii) The discussions held by the Committee at its thirty-second and thirty-third sessions on draft general comments, notably on article 3 (the equal right of men and women to the enjoyment of all economic, social and cultural rights), and on article 6 (the right to work) of the Covenant;
 - (b) The work of the Committee on the Rights of the Child in the promotion of the economic, social and cultural rights of children;
 - (c) Efforts of the High Commissioner to promote economic, social and cultural rights, inter alia within the United Nations Development Group;
 - (d) The elaboration of training programmes in the Office of the United Nations High Commissioner to develop in-house expertise in incorporating economic, social and cultural rights in technical cooperation projects, and encourages the Office to enhance the incorporation of economic, social and cultural rights in its technical cooperation programmes and in the work of its field offices;
4. *Welcomes* the activities carried out by the Office of the High Commissioner on the promotion of economic, social and cultural rights, which have included awareness-raising on the importance of economic, social and cultural rights, contributing to the implementation of internationally agreed development goals, including those contained in the United Nations Millennium Declaration, and several inter-agency activities and regional initiatives exploring the legal content and justiciability of these rights;
5. *Takes note with interest* of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (E/CN.4/2005/48 and Add.1-3) and of his report containing a study on women and adequate housing (E/CN.4/2005/43);
6. *Also welcomes:*
- (a) Ongoing efforts by the General Assembly and the Economic and Social Council towards a coordinated follow-up to relevant United Nations conferences and summits;

(b) Regional initiatives to promote the further realization of economic, social and cultural rights;

(c) The inclusion of the issue of the realization of economic, social and cultural rights in the Durban Declaration and Programme of Action adopted on 8 September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1), in which States underscored, inter alia, the need to design, promote and implement at the national, regional and international levels strategies, programmes and policies, and adequate legislation, which may include special and positive measures, for furthering equal social development and the realization of the civil and political, economic, social and cultural rights of all victims of racism, racial discrimination, xenophobia and related intolerance;

(d) The inclusion of the issue of the realization of economic, social and cultural rights in the document entitled “A world fit for children”, adopted by the General Assembly in the annex to its resolution S-27/2 of 10 May 2002 during its twenty-seventh special session on children, in which participating States agreed to implement the Plan of Action and to that end to consider establishing or strengthening measures such as national legislation, policies and action plans to fulfil and protect rights and to secure the well-being of children, and national bodies or other institutions for the promotion and protection of the rights of the child;

7. *Further welcomes* the activities and efforts of non-governmental organizations in raising awareness, and their important contributions to the question of the realization and enjoyment of economic, social and cultural rights;

8. *Recalls* the proclamation, by the General Assembly, of the International Decade for Action, “Water for Life”, 2005-2015 and, in this context, takes note of general comment No. 15 (2002) on the right to water adopted by the Committee on Economic, Social and Cultural Rights;

9. *Reaffirms:*

(a) That, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his or her economic, social and cultural rights, as well as his or her civil and political rights;

(b) The inextricable link between full respect for the rights contained in the International Covenant on Economic, Social and Cultural Rights and the process of development, the central purpose of which is the realization of the potentialities of the human person with the effective participation of all members of society in relevant decision-making processes as agents and beneficiaries of development, as well as with a fair distribution of its benefits;

(c) That all persons in all countries are entitled to the realization of their economic, social and cultural rights, which are indispensable to their dignity and the free development of their personality;

(d) The universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and that promoting and protecting one category of rights should therefore never exempt or excuse States from the promotion and protection of other rights;

(e) The importance of international cooperation in assisting Governments to fulfil their obligation to protect and promote all human rights, including economic, social and cultural rights, while emphasizing that the first responsibility for promoting and protecting human rights lies with States;

(f) That the realization of all human rights and fundamental freedoms, and particularly economic, social and cultural rights, is a dynamic process and that, as is evident in today's world, a great deal remains to be accomplished;

10. *Calls upon* all States:

(a) To give full effect to economic, social and cultural rights;

(b) To consider signing and ratifying, and the States parties to implement, the International Covenant on Economic, Social and Cultural Rights;

(c) To guarantee that economic, social and cultural rights will be exercised without discrimination of any kind;

(d) To secure progressively, through national development policies and with international assistance and cooperation, full realization of economic, social and cultural rights, giving particular attention to the individuals, most often women and children, especially girls, and communities living in extreme poverty and therefore most vulnerable and disadvantaged;

(e) To consider in this context, as appropriate, the draft guidelines on the integration of human rights into poverty reduction strategies and the desirability of drawing up national action plans identifying steps to improve the situation of human rights in general with specific benchmarks designed to give effect to minimum essential levels of enjoyment of economic, social and cultural rights;

(f) To help alleviate the unsustainable external debt burden of countries that meet the criteria of the Heavily Indebted Poor Countries Initiative, which should further strengthen the efforts of the Governments of these countries to realize economic, social and cultural rights, inter alia through the development and implementation of programmes, as well as the prevention of the spread of the HIV/AIDS pandemic in Africa and the reconstruction of countries affected by natural disasters;

(g) To promote the effective and wide participation of representatives of civil society in decision-making processes related to the promotion and protection of economic, social and cultural rights, including through efforts to identify and strengthen good governance practices - transparent, responsible and participatory government which is responsive to the needs and aspirations of all sections of society;

11. *Calls upon* the States parties to the International Covenant on Economic, Social and Cultural Rights:

(a) To withdraw reservations incompatible with the object and purpose of the Covenant and to consider reviewing other reservations with a view to withdrawing them;

(b) To promote a concerted national effort to ensure the participation of representatives of all sectors of civil society in the process of preparation of their periodic reports to the Committee on Economic, Social and Cultural Rights and in the implementation of the recommendations of the Committee;

(c) To submit their reports to the Committee in a regular and timely manner;

(d) To ensure that the Covenant is taken into account in all of their relevant national and international policy-making processes;

12. *Recalls* that international cooperation in solving international problems of an economic, social and cultural character and in promoting and encouraging respect for human rights and fundamental freedoms for all is one of the purposes of the United Nations, and affirms that wider international cooperation would contribute to lasting progress in implementing economic, social and cultural rights;

13. *Decides*:

(a) To encourage the Committee on Economic, Social and Cultural Rights to continue its efforts towards the promotion, protection and full realization of the rights enshrined in the International Covenant on Economic, Social and Cultural Rights, at the national and international levels, notably by:

- (i) Enhancing its cooperation with United Nations specialized agencies, programmes, special mechanisms and the other human rights treaty bodies and other bodies working on issues that bear upon the Covenant;
- (ii) Drafting further general comments to assist and promote the further implementation by States parties of the Covenant, and making the experience gained through the examination of States parties' reports available for the benefit of all States parties;

(b) To encourage all United Nations specialized agencies and programmes, relevant special mechanisms of the Commission and other United Nations bodies, including human rights

treaty bodies whose activities bear upon economic, social and cultural rights, to enhance their cooperation and, as appropriate, increase coordination with the Committee in a manner that respects their distinctive mandates and promotes their policies, programmes and projects;

(c) To encourage the Office of the High Commissioner to continue its cooperation with other United Nations agencies as part of the integration of economic, social and cultural rights within the United Nations system;

(d) To encourage the High Commissioner to strengthen the research and analytical capacities of her Office in the field of economic, social and cultural rights and to share her expertise, inter alia through the holding of expert meetings;

(e) To encourage the High Commissioner to continue to ensure better support for the Committee, in particular under the Programme of Action to strengthen the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1997/22-E/C.12/1996/6, annex VII) adopted by the Committee at its fifteenth session;

(f) To encourage the High Commissioner to continue to provide or to facilitate practical support aimed at building capacities for the full realization of economic, social and cultural rights;

(g) To support the efforts by the High Commissioner to implement the proposed Programme of Action designed to enhance the ability of the Committee to assist interested Governments in their reporting obligations and its capacity to process and follow up the examination of States parties' reports and, accordingly, to request States parties to the Covenant to make voluntary financial contributions to ensure the adequate implementation of that Programme of Action;

14. *Welcomes* the report of the open-ended working group of the Commission established with the view to considering options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights (E/CN.4/2005/52);

15. *Requests* the working group to report to the Commission at its sixty-second session;

16. *Requests* the Secretary-General to submit to the Commission at its sixty-second session a report on the implementation of the present resolution;

17. *Decides* to continue consideration of this subject at its sixty-second session under the same agenda item.

*51st meeting
15 April 2005*

[Adopted by a recorded vote of 50 votes to none,
with 3 abstentions. See chap. X.]

**2005/23. Access to medication in the context of pandemics
such as HIV/AIDS, tuberculosis and malaria**

The Commission on Human Rights,

Reaffirming the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights,

Reaffirming also that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is a human right,

Recalling its resolutions 1999/49 of 27 April 1999, 2001/33 of 23 April 2001, 2001/51 of 24 April 2001, 2002/32 of 22 April 2002, 2003/29 of 22 April 2003 and 2004/26 of 15 April 2004,

Bearing in mind World Health Assembly resolutions WHA55.12 entitled “Contribution of WHO to the follow-up of the United Nations General Assembly special session on HIV/AIDS”, and WHA55.14 entitled “Ensuring accessibility of essential medicines”, both adopted on 18 May 2002, and World Health Assembly resolutions WHA56.27 entitled “Intellectual property rights, innovation and public health” and WHA56.30 entitled “Global health-sector strategy for HIV/AIDS”, both adopted on 28 May 2003 and resolution WHA57.14 entitled “Scaling up treatment and care within a coordinated and comprehensive response to HIV/AIDS” adopted on 22 May 2004,

Recalling the establishment of the Commission on Intellectual Property Rights, Innovation and Public Health by the World Health Organization,

Acknowledging that prevention and comprehensive care and support, including treatment and access to medication for those infected and affected by pandemics such as HIV/AIDS, tuberculosis and malaria are inseparable elements of an effective response and must be integrated into a comprehensive approach to respond to such pandemics,

Recalling general comment No. 14 (2000) on the right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights), adopted by the Committee on Economic, Social and Cultural Rights at its twenty-second session,

Recalling also general comment No. 3 (2003) on HIV/AIDS and the rights of the child, adopted by the Committee on the Rights of the Child at its thirty-second session,

Noting with great concern that, according to the Joint United Nations Programme on HIV/AIDS (UNAIDS), the HIV/AIDS pandemic claimed an estimated 3.1 million lives in 2004,

Alarmed that, according to the same source, about 40 million people were living with HIV by the end of 2004 and that an estimated 5 million people were newly infected with HIV in 2004,

Alarmed also that, according to information provided jointly by UNAIDS, the United Nations Children's Fund and the United States Agency for International Development, in July 2002, it is projected that 25 million children under the age of 15 will lose one or both parents owing to HIV/AIDS by 2010, 20 million of whom will reside in Africa,

Recalling General Assembly resolution 59/256, entitled "2001-2010: Decade to Roll Back Malaria in Developing Countries, Particularly in Africa", adopted on 23 December 2004,

Alarmed that, according to the global Roll Back Malaria partnership, malaria annually causes more than one million preventable deaths, about 90 per cent of which are in Africa, that malaria is the leading cause of death in young children and that it causes at least 300 million cases of acute illness each year,

Alarmed also that, according to the World Health Organization report of 2004 entitled *Global Tuberculosis Control: Surveillance, Planning, Financing*, tuberculosis kills

about 2 million people each year, more than 8 million people around the world become sick with tuberculosis each year, and it is projected that between 2002 and 2020, 36 million people will die of tuberculosis if control is not further strengthened,

Acknowledging the significance of HIV/AIDS in the increase in tuberculosis and other opportunistic infections,

Alarmed that, according to the World Health Organization, one third of the world's population still lacks access to essential medicines and that in the poorest parts of Africa and Asia, over half of the population lacks access to even the most basic essential drugs,

Welcoming the initiatives of the Secretary-General and relevant United Nations agencies, developed and developing countries, and the private sector to make drugs related to HIV/AIDS, tuberculosis and malaria more accessible to developing countries, and noting that much more can be done in this regard,

Recalling the Declaration on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and Public Health adopted at the Fourth Ministerial Conference of the World Trade Organization in Doha in November 2001,

Recalling also the decision on the implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, adopted by the General Council of the World Trade Organization on 30 August 2003,

Recognizing the existing efforts and need to further promote the transfer of technology and capacity-building to countries with insufficient or no manufacturing capacities in the pharmaceutical sector, in accordance with applicable international law, including international agreements acceded to,

Stressing the importance of fully implementing the Declaration of Commitment on HIV/AIDS, "Global Crisis - Global Action", adopted by the General Assembly in its resolution S-26/2 of 27 June 2001 at its special session on HIV/AIDS, and taking note of the report of the Secretary-General on progress towards implementation of the Declaration of Commitment on HIV/AIDS (A/58/184),

Expressing its support for the work of the Global Fund to Fight AIDS, Tuberculosis and Malaria and of other international bodies combating such pandemics, and encouraging the Global Fund to develop further effective and appropriate processes for the disbursement of funds,

Recalling the goal of the World Health Organization and UNAIDS which aims to support developing countries in securing access to antiretroviral treatment for 3 million people living with HIV/AIDS by the end of 2005, noting the importance of mobilizing financial contributions from States and other donors and the need to think beyond the 2005 target,

Taking note of the World Health Organization's initiatives to make safe, effective and affordable medicines and diagnostics of good quality more easily accessible to developing countries and countries with economies in transition,

Recalling the need to strengthen the prevention aspect in the fight against pandemics such as HIV/AIDS, tuberculosis and malaria,

Recognizing that the spread of HIV/AIDS can have a uniquely devastating impact on all sectors and levels of society and stressing that the HIV/AIDS pandemic, if unchecked, may pose a risk to stability and security, as stated in Security Council resolution 1308 (2000) of 17 July 2000,

Emphasizing, in view of the increasing challenges presented by pandemics such as HIV/AIDS, tuberculosis and malaria, the need for intensified efforts to ensure universal respect for and observance of human rights and fundamental freedoms for all, including by reducing vulnerability to pandemics such as HIV/AIDS, tuberculosis and malaria and by preventing related discrimination and stigma,

1. *Recognizes* that access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria is one fundamental element for achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

2. *Calls upon* States to consider taking into account the guidelines elaborated at the Second International Consultation on HIV/AIDS and Human Rights held in Geneva from 23 to 25 September 1996 (E/CN.4/1997/37, annex I), as well as the revision of guideline 6 at the Third International Consultation, held on 25 and 26 July 2002;

3. *Also calls upon* States to develop and implement national strategies, in accordance with applicable international law, including international agreements acceded to, in order to progressively realize access for all to prevention-related goods, services and information as well as access to comprehensive treatment, care and support for all individuals infected and affected by pandemics such as HIV/AIDS, tuberculosis and malaria;

4. *Further calls upon* States to establish or strengthen national health and social infrastructures and health-care systems, with the assistance of the international community as necessary, for the effective delivery of prevention, treatment, care and support to respond to pandemics such as HIV/AIDS, tuberculosis and malaria;

5. *Affirms* the importance of public health interests in both pharmaceutical and health policies;

6. *Calls upon* States to pursue policies, in accordance with applicable international law, including international agreements acceded to, which would promote:

(a) The availability, in sufficient quantities, of pharmaceutical products and medical technologies used to treat and/or prevent pandemics such as HIV/AIDS, tuberculosis and malaria or the most common opportunistic infections that accompany them;

(b) The accessibility and affordability for all without discrimination, including the most vulnerable or socially disadvantaged groups of the population, as well as infants and children, of pharmaceutical products or medical technologies used to treat and/or prevent pandemics such as HIV/AIDS, tuberculosis, malaria or the most common opportunistic infections that accompany them;

(c) The assurance that pharmaceutical products or medical technologies used to treat and/or prevent pandemics such as HIV/AIDS, tuberculosis, malaria or the most common opportunistic infections that accompany them, irrespective of their sources and countries of origin, are scientifically and medically appropriate and of good quality;

7. *Calls upon* States, at the national level, on a non-discriminatory basis, in accordance with applicable international law, including international agreements acceded to:

(a) To refrain from taking measures which would deny or limit equal access for all persons to preventive, curative or palliative pharmaceutical products or medical technologies, including microbicides and male and female condoms, used to treat and/or prevent pandemics such as HIV/AIDS, tuberculosis, malaria or the most common opportunistic infections that accompany them;

(b) To adopt and implement, as appropriate, legislation or other measures affecting public health, in accordance with applicable international law, including international agreements acceded to, to safeguard access to such preventive, curative or palliative pharmaceutical products or medical technologies from any limitations by third parties;

(c) To adopt all appropriate positive measures, to the maximum of the resources allocated for this purpose, to promote effective access to such preventive, curative or palliative pharmaceutical products or medical technologies;

8. *Also calls upon* States, in furtherance of the Declaration of Commitment on HIV/AIDS, to address factors affecting the provision of drugs related to the treatment of pandemics such as HIV/AIDS and the most common opportunistic infections that accompany them, as well as to develop integrated strategies to strengthen health-care systems;

9. *Urges* States to develop and implement national health policies that monitor the use of medications, diagnoses and related technologies, to ensure informed consent and confidentiality in conducting HIV testing and counselling, and to strengthen laboratory capacities and the training of health-care providers and technicians;

10. *Calls upon* States to adopt effective measures to prevent mother-to-child transmission of HIV and to facilitate access to antiretroviral therapy, safe delivery practices and breast-milk substitutes, where feasible and safe;

11. *Also calls upon* States to take all appropriate measures, nationally and through cooperation, to promote research and development of new and more effective preventive, curative or palliative pharmaceutical products and diagnostic tools, in accordance with applicable international law, including international agreements acceded to;

12. *Further calls upon* States, at the international level, to take steps, individually and/or through international cooperation, in accordance with applicable international law, including international agreements acceded to, such as:

(a) To facilitate, wherever possible, access in other countries to essential preventive, curative or palliative pharmaceutical products or medical technologies used to treat and/or prevent pandemics such as HIV/AIDS, tuberculosis and malaria and the most common opportunistic infections that accompany them, as well as to extend the necessary cooperation, wherever possible, especially in times of emergency;

(b) To ensure that their actions as members of international organizations take due account of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and that the application of international agreements is supportive of public health policies that promote broad access to safe, effective and affordable preventive, curative or palliative pharmaceutical products and medical technologies;

13. *Urges* States to consider, whenever necessary, enacting appropriate national legislation in order to use to the fullest extent the flexibilities contained in the TRIPS Agreement and encourages States to take into account such flexibilities when entering into international trade agreements that may affect public health;

14. *Calls upon* States to conduct an impact assessment of the effects of international trade agreements with regard to public health and to the progressive realization of the right of everyone to the highest attainable standard of health;

15. *Welcomes* the financial contributions made to date to the Global Fund to Fight AIDS, Tuberculosis and Malaria, urges that further contributions be made by States and other donors, and also calls upon all States to encourage the private sector to increase their contributions to the Fund as a matter of urgency;

16. *Calls upon* all States and other donors to cooperate in supporting the “3 by 5” Initiative launched jointly by the World Health Organization and UNAIDS with the aim of providing antiretroviral treatment to 3 million people in the developing world by the end of 2005;

17. *Calls upon* international organizations, agencies and programmes to mobilize further resources to combat pandemics such as HIV/AIDS, tuberculosis and malaria and calls upon all Governments to take measures to ensure that the necessary resources are made available for that purpose;

18. *Calls upon* States to ensure that those at risk of contracting malaria, in particular pregnant women and children under five years of age, benefit from the most suitable combination of personal and community protective measures, such as insecticide-treated bed nets, indoor residual spraying and other interventions that are accessible and affordable, in order to prevent infection and suffering, and to support expanded access to artemisinin-based combination therapy;

19. *Also calls upon* States to provide the necessary support for the World Health Organization “Roll Back Malaria” and “Stop TB” partnerships in ongoing measures to combat malaria and tuberculosis;

20. *Calls upon* the international community, the developed countries in particular, to continue to assist the developing countries in the fight against pandemics such as HIV/AIDS, tuberculosis and malaria through financial and technical support, as well as through the training of personnel;

21. *Invites* the Committee on Economic, Social and Cultural Rights also to give attention to the issue of access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria and invites States to include appropriate information thereon in the reports they submit to the Committee;

22. *Takes note with interest* of the report of the Secretary-General on access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria (E/CN.4/2005/38);

23. *Requests* the Secretary-General to solicit comments from Governments, United Nations organs, programmes and specialized agencies and international and non-governmental organizations on the steps they have taken to promote and implement, where applicable, the present resolution, as well as to report thereon to the Commission at its sixty-second session;

24. *Decides* to continue its consideration of this matter at its sixty-second session, under the same agenda item.

*51st meeting
15 April 2005*

[Adopted without a vote. See chap. X.]

2005/24. The right of everyone to the enjoyment of the highest attainable standard of physical and mental health

The Commission on Human Rights,

Reaffirming the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child,

Reaffirming also that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is a human right, as reflected, inter alia, in article 25, paragraph 1, of the Universal Declaration of Human Rights, article 12 of the International Covenant on Economic, Social and Cultural Rights and article 24 of the Convention on the

Rights of the Child, as well as, with respect to non-discrimination, in article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination and in article 12, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, and that such a right derives from the inherent dignity of the human person,

Recalling that, according to the Constitution of the World Health Organization, health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity,

Considering that, according to the International Classification of Functioning, Disability and Health of the World Health Organization, “disability” refers to a range of impairments, activity limitations and participation restrictions, whether permanent or transitory,

Recalling the establishment of the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities by General Assembly resolution 56/168 of 19 December 2001,

Welcoming the report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to the Commission on Human Rights at its sixty-first session (E/CN.4/2005/51 and Add.1-4),

Recalling the relevant provisions of declarations and programmes of action adopted by the major United Nations conferences, summits and special sessions and their follow-up meetings,

Recalling all its previous resolutions concerning the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Recalling general comment No. 14 (2000) on the right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights), adopted by the Committee on Economic, Social and Cultural Rights at its twenty-second session,

Recalling also general comment No. 15 (2002) on the right to water (articles 11 and 12 of the Covenant), adopted by the Committee at its twenty-ninth session,

Recalling further general comment No. 3 (2003) on HIV/AIDS and the rights of the child, adopted by the Committee on the Rights of the Child at its thirty-second session,

Recalling general recommendation No. 24 (1999) on women and health (article 12 of the Convention on the Elimination of All Forms of Discrimination against Women), adopted by the Committee on the Elimination of Discrimination against Women at its twentieth session,

Recalling also that the International Labour Organization Convention concerning Occupational Safety and Health and the Working Environment, 1981 (No. 155) emphasizes the importance of promoting coherent national policy in the matter of occupational safety and health of workers with the aim of preventing accidents and injury to health occurring in the course of work,

Taking note of resolution EB115.R11 adopted on 24 January 2005 by the Executive Board of the World Health Organization at its one-hundred and fifteenth session on health action in relation to crises and disasters, with particular emphasis on the South Asian earthquakes and tsunami of 26 December 2004,

Recalling resolution 47/1 of 14 March 2003 on women, the girl child and HIV/AIDS, adopted by the Commission on the Status of Women,

Stressing that gender equality and the empowerment of women and girls are fundamental elements in the reduction of their vulnerability to HIV/AIDS and in the reversal of the pandemic, and noting the importance of increasing investments in, and accelerating research on, the development of effective HIV prevention methods, including female-controlled methods and microbicides,

Acknowledging that persons with disabilities related to mental disorders are vulnerable members of society since they face barriers to their full inclusion and participation in society, and stressing that such barriers need to be addressed in accordance with human rights principles,

Recognizing a need for States, in cooperation with international organizations and civil society, including non-governmental organizations and the private sector, to create favourable

conditions at the national, regional and international levels to ensure the full and effective realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Noting the need for States to progressively realize the right to the enjoyment of the highest attainable standard of physical and mental health and noting the important contribution that international assistance and cooperation can make in this regard,

Mindful that States should take into account the right of everyone to the enjoyment of the highest attainable standard of physical and mental health in their relevant national and international policy-making processes,

Recognizing the indispensable role that health professionals play in the promotion and protection of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Welcoming the initiatives of the Secretary-General and relevant United Nations bodies and programmes, such as the World Health Organization and the Joint United Nations Programme on HIV/AIDS (UNAIDS), as well as public-private partnership initiatives, such as the Global Fund to Fight AIDS, Tuberculosis and Malaria, which contribute to improvements in addressing health issues worldwide, including in developing countries, while noting that further progress should be achieved in this regard, including in the mobilization of resources,

Concerned about the interrelationships between poverty and the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in particular that ill-health can be both a cause and a consequence of poverty,

Recalling the development goals of the United Nations Millennium Declaration, in particular the four health-related development goals,

Considering that sexual and reproductive health are integral elements of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Recalling the Declaration on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and Public Health adopted at the Fourth Ministerial

Conference of the World Trade Organization, held in Doha in November 2001, and the decision of the General Council of the World Trade Organization of 30 August 2003 on the implementation of paragraph 6 of the Declaration,

Stressing the importance of monitoring and analysing the pharmaceutical and public health implications of relevant international agreements, including trade agreements, so that States can effectively assess and subsequently develop pharmaceutical and health policies and regulatory measures that address their concerns and priorities, and are able to maximize the positive and mitigate the negative impact of those agreements, while respecting all international obligations applicable to them,

1. *Urges* States to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of their available resources, with a view to achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

2. *Calls upon* the international community to continue to assist the developing countries in promoting the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including through financial and technical support as well as training of personnel, while recognizing that the primary responsibility for promoting and protecting all human rights rests with States;

3. *Also calls upon* the international community to enhance relief assistance to populations affected by devastation caused by natural disasters as well as by man-made events in order to ensure their physical and mental health recovery;

4. *Calls upon* States to guarantee that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health will be exercised without discrimination of any kind;

5. *Also calls upon* States to pay attention, as necessary, to the physical and mental health of vulnerable groups, including, when appropriate, by adopting positive measures;

6. *Encourages* States to recognize the particular needs of persons with disabilities related to mental disorders, as well as their families, including by reflecting their needs in national health and social policies, such as national poverty reduction strategies;
7. *Calls upon* States to introduce, as far as possible, community-based care and support for persons with disabilities related to mental disorders, in order to ensure their access to medical and social services that promote their independence and autonomy and support their social integration;
8. *Urges* States to ensure the participation of persons with disabilities related to mental disorders, their families and representatives in the design, implementation and monitoring of laws, policies and programmes relating to mental health-care and support services;
9. *Recommends* that States keep under review legislation, procedural safeguards and practices related to the treatment of persons with disabilities related to mental disorders, taking into account the principle of informed consent;
10. *Affirms* the importance of ensuring the accountability of national health authorities and institutions, and the effectiveness and transparency of the treatment procedures adopted in the case of mental health;
11. *Emphasizes* the need to ensure that people with disabilities related to mental disorders are guaranteed equal protection of their sexual and reproductive health, including protection from forced sterilization and sexual violence;
12. *Invites* States to become parties to the World Health Organization Framework Convention on Tobacco Control;
13. *Reaffirms* that the achievement of the highest attainable standard of physical and mental health is a most important worldwide social goal, the realization of which requires action by many other social and economic sectors in addition to the health sector;
14. *Calls upon* States to place a gender perspective at the centre of all policies and programmes affecting women's health;

15. *Also calls upon* States to protect and promote sexual and reproductive health as integral elements of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

16. *Considers* it to be of the utmost importance to enhance all States' efforts for the effective prevention of violence that causes physical and mental injury, particularly with a view to reducing its possible negative impact on the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

17. *Affirms* that access to a sufficient amount of safe, clean water for personal and domestic use and adequate nutrition is fundamental to the realization of the right of everyone to the enjoyment of the highest attainable standard of health;

18. *Also affirms* that good governance, sound economic policies and solid democratic institutions responsive to the needs of the people are also key to the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

19. *Decides* to extend, for a period of three years, the mandate of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, as reflected in article 25, paragraph 1, of the Universal Declaration of Human Rights, article 12 of the International Covenant on Economic, Social and Cultural Rights, article 24 of the Convention on the Rights of the Child and article 12 of the Convention on the Elimination of All Forms of Discrimination against Women, as well as on the right to non-discrimination as reflected in article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination;

20. *Requests* the Special Rapporteur:

(a) To gather, request, receive and exchange information from all relevant sources, including Governments, intergovernmental organizations and non-governmental organizations, on the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

(b) To develop a regular dialogue and discuss possible areas of cooperation with all relevant actors, including Governments, relevant United Nations bodies, specialized agencies and programmes, in particular the World Health Organization and UNAIDS, as well as non-governmental organizations and international financial institutions;

(c) To report on the status, throughout the world, of the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in accordance with the provisions of the instruments listed in paragraph 19 above, and on developments relating to this right, including on laws, policies and good practices most beneficial to its enjoyment and obstacles encountered domestically and internationally to its implementation;

(d) To make recommendations on appropriate measures to promote and protect the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, with a view to supporting States' efforts to enhance public health;

21. *Requests* the Special Rapporteur to avoid in his work any duplication or overlapping with the work, competence and mandate of other international bodies active in health issues;

22. *Invites* the Special Rapporteur to apply a gender perspective in his work and to pay special attention to the needs of children in the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

23. *Also invites* the Special Rapporteur to take into account in his work the relevant provisions of the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12 and Corr.1), as well as of the declarations and programmes of action adopted by the major United Nations conferences and summits and their follow-up meetings, and to bear in mind general comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights and general recommendation No. 24 (1999) of the Committee on the Elimination of Discrimination against Women, as well as any other general comment that treaty bodies adopt on related provisions of relevant instruments;

24. *Further invites* the Special Rapporteur, within his existing mandate, to continue to explore how efforts to realize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health can reinforce poverty reduction strategies;

25. *Invites* the Special Rapporteur, within his existing mandate, to continue his analysis of the human rights dimensions of the issues of neglected diseases and diseases particularly affecting developing countries, and also the national and international dimensions of those issues;

26. *Requests* the United Nations High Commissioner for Human Rights to provide all the necessary resources for the effective fulfilment of the Special Rapporteur's mandate from within existing resources;

27. *Calls upon* Governments to cooperate fully with the Special Rapporteur in the implementation of his mandate, to provide all information requested and to respond promptly to his communications;

28. *Requests* the Special Rapporteur to submit annually a report to the Commission and an interim report to the General Assembly on the activities performed under his mandate;

29. *Decides* to continue consideration of this matter at its sixty-second session under the same agenda item;

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

“The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/24 of 15 April 2005, approves the Commission's decision to extend for a period of three years the mandate of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”

*51st meeting
15 April 2005*

[Adopted by a recorded vote of 52 votes to 1. See chap. X.]

2005/25 Women's equal ownership, access to and control over land and the equal rights to own property and to adequate housing

The Commission on Human Rights,

Guided by the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination,

Reaffirming the Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women,¹ and the outcome document of the special session of the General Assembly entitled "Women 2000: gender equality, development and peace for the twenty-first century",²

Recalling the United Nations Millennium Declaration and the declarations and programmes of actions of and follow-up processes to the United Nations world conferences summits held in Vienna,³ Cairo,⁴ Copenhagen,⁵ Istanbul,⁶ Durban⁷ and Johannesburg,⁸

Reaffirming the Declaration adopted by the Commission on the Status of Women at its forty-ninth session as a follow-up to the Fourth World Conference on Women and to the twenty-third special session of the General Assembly, which emphasizes that the full and effective implementation of the Beijing Declaration and Platform for Action is essential to achieving the internationally agreed development goals, including those contained in the Millennium Declaration, and stresses the need to ensure the integration of a gender perspective in the High-level Plenary Meeting of the General Assembly on the review of the Millennium Declaration,

Recalling its resolution 2004/21 of 16 April 2004 on adequate housing as a component on the right to an adequate standard of living, and resolution 2003/22 of 22 April 2003 on women's equal ownership, access to and control over land and the equal rights to own property and to adequate housing,

Reaffirming that all human rights are universal, indivisible, interdependent and interrelated and that women's equal ownership, access to and control over land and the equal right to own property and to adequate housing contribute to the full realization of human rights,

Recognizing that women, particularly women living in extreme poverty and victims of domestic violence, continue to suffer multiple or aggravated forms of discrimination, inter alia on the grounds of property, as well as from discriminatory treatment in all areas decisive to the attainment of adequate housing,

Reaffirming the human right to be free from all forms of discrimination and the equal right of women and men to the enjoyment of all civil, cultural, economic, political and social rights,

Mindful of the fact that elimination of discrimination against women and the achievement of substantive equality of women and girls require consideration of women's specific socio-economic context,

Welcoming the findings of the former Special Rapporteur on violence against women, its causes and consequences (see E/CN.4/2000/68/Add.5), in particular, the recognition that women's poverty, together with a lack of alternative housing options, make it difficult for women to leave violent family situations, and reaffirming that forced relocation and forced eviction from home and land have a disproportionately severe impact on women, including when these are committed by spouses or in-laws, and encouraging the new Special Rapporteur to continue to take these findings into consideration in her future work,

Recognizing that poverty is a major obstacle to women's full realization of housing, land and property rights,

Convinced that the lack of adequate housing can make women more vulnerable to various forms of violence, including domestic violence, and in particular that the lack of housing alternatives may limit many women's ability to leave violent situations,

Stressing that the impact of gender-based discrimination and violence against women on women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing is acute, particularly during complex emergency situations, reconstruction and rehabilitation,

Recognizing that the Secretary-General has linked the growing prevalence of HIV/AIDS in women with laws that inhibit the full enjoyment of women's rights to land ownership and inheritance, and that he has called for positive change and attention to women's empowerment and protection of women's housing and land rights to make women less vulnerable to HIV/AIDS,

Reaffirming the Declaration of Commitment on HIV/AIDS, agreed to at the twenty-sixth special session of the General Assembly convened in 2001, which calls for all Governments to strengthen or enforce legislation, regulations and other measures to eliminate all forms of discrimination and to ensure the full enjoyment of all human rights and fundamental freedoms by people living with HIV/AIDS and members of vulnerable groups, in particular, to ensure their access to inheritance and legal protections,

Recognizing that laws, policies, customs, traditions and practices that act to restrict women's equal access to credit and loans also prevent women from owning and inheriting land, property and housing and exclude women from participating fully in development processes, are discriminatory and contribute to increasing the poverty of women and girls,

Convinced that international, regional and local trade, finance and investment policies should be designed in such a way that they promote gender equality in terms of ownership of, access to and control over land and the rights to own property and to adequate housing and other productive resources and do not undermine women's capacity to acquire and retain these resources,

Convinced also of the need to address specifically the impact of natural disasters on women's and children's adequate housing needs and to ensure that a human rights approach, including a gender perspective, is taken when addressing this impact,

1. *Takes note with interest* of the findings of the progress report on the study on women and adequate housing (E/CN.4/2005/43) submitted by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in accordance with Commission on Human Rights resolution 2003/22;

2. *Reaffirms* women's right to an adequate standard of living, including adequate housing, as enshrined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, and urges Governments to comply fully with their international and regional obligations and commitments concerning land tenure and the equality of women to own, have access and to control property, land and housing, irrespective of their marital status, and to an adequate standard of living, including adequate housing;

3. *Affirms* that discrimination in law and practice against women with respect to having access to, acquiring and securing land, property and housing, as well as financing for land, property and housing, constitutes a violation of women's human right to protection against discrimination and may affect the realization of other human rights;

4. *Reaffirms* Commission on the Status of Women resolution 42/1, which, inter alia, urges States to design and revise laws to ensure that women are accorded full and equal rights to own land and other property, and the right to adequate housing, including through the right to inheritance, and to undertake administrative reforms and other necessary measures to give women the same right as men to credit, capital, appropriate technologies, access to markets and information;

5. *Encourages* Governments to support the transformation of customs and traditions that discriminate against women and deny women security of tenure and equal ownership of, access to and control over land and equal rights to own property and to adequate housing, to ensure the right of women to equal treatment in land and agrarian reform as well as in land resettlement schemes and in ownership of property and in adequate housing, and to take other measures to increase access to land and housing for women living in poverty, particularly female heads of household, including through access to housing subsidies;

6. *Calls upon* States to urgently address discrimination, inequality and historical injustices experienced by women in vulnerable situations, inter alia, indigenous women, in particular to secure their equal ownership, access to and control over land, and equal rights to own property and to adequate housing;

7. *Reaffirms* the obligation of States to take all appropriate measures, including special measures, inter alia those derived from their obligations under the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination, to eliminate discrimination against women by any person, organization or enterprise, and recommends that Governments encourage financial and lending institutions to ensure that their policies and practices do not discriminate against women;

8. *Urges* Governments to address the issue of forced relocation and forced evictions from home and land and to eliminate its disproportionate impact on women;

9. *Recommends* that international financial institutions, regional, national and local housing financing institutions and other credit facilities facilitate the participation of women and take into account their views in order to remove discriminatory policies and practices, giving special consideration to single women and households headed by women, and that these institutions evaluate and measure progress to this end;

10. *Invites* Governments to take further appropriate measures to address the increasing rate of homelessness or inadequate housing for women, including its underlying factors, such as gender inequality, HIV/AIDS, poverty and violence;

11. *Encourages* Governments, specialized agencies, funds, programmes and other organizations of the United Nations system, as well as other international organizations and non-governmental organizations, to provide judges, lawyers, political and other public officials, community leaders and other concerned persons, as appropriate, with information and human rights education concerning women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing;

12. *Invites* the Secretary-General to encourage all organizations and bodies of the United Nations system, individually and collectively, in particular the United Nations Development Programme, the United Nations Human Settlements Programme (UN-Habitat), the United Nations Development Fund for Women and the Joint United Nations Programme on HIV/AIDS (UNAIDS), to undertake further initiatives that promote women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing, and allocate further resources for studying, documenting and addressing the impact of complex emergency situations and the HIV/AIDS pandemic, particularly with respect to women's equal rights to own land, property and adequate housing;

13. *Invites* the Office of the United Nations High Commissioner for Human Rights, the Office of the United Nations High Commissioner for Refugees and other relevant international organizations, within their respective mandates, to address discrimination against women with respect to land, property and adequate housing in their cooperation programmes and field activities;

14. *Encourages* all the human rights treaty bodies, in particular the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Discrimination against Women, special procedures and other human rights mechanisms of the Commission and the Sub-Commission on the Promotion and Protection of Human Rights as well as all United Nations bodies regularly and systematically to take a gender perspective into account in the implementation of their mandates and to integrate the content of the present resolution into their work, as appropriate;

15. *Encourages* the United Nations Housing Rights Programme to take into account the content of the present resolution and to continue its regional consultations, with the participation of representatives of Governments, United Nations agencies, intergovernmental organizations and non-governmental organizations;

16. *Requests* the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination, within his mandate, to submit a final report to the Commission at its sixty-second session containing the study on women and adequate housing;

17. *Also requests* the Special Rapporteur to specifically consider the impact of natural disasters on women's adequate housing;

18. *Further requests* the Special Rapporteur to cooperate with the Special Rapporteur on violence against women, its causes and consequences, in the elaboration of model provisions to protect women's rights in housing and domestic violence legislation, to ensure women's full and equal access to national legal aid schemes to protect their housing, land and property rights in cases of divorce, inheritance and domestic violence;

19. *Invites* all States that have not done so to respond to the questionnaire prepared by the Special Rapporteur;

20. *Decides* to continue its consideration of this question at its sixty-third session under the agenda item entitled "Economic, social and cultural rights".

*51st meeting
15 April 2005*

[Adopted without a vote. See chap. X.]

Notes

¹ *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1.

² Resolution S-23/3, annex.

³ Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993 (A/CONF.157/24 (Part I)), chap. III.

⁴ Programme of Action adopted by the International Conference on Population and Development on 13 September 1994, *Report of the International Conference on Population and Development, Cairo, 5-13 September 1994* (United Nations publication, Sales No. E.95.XIII.18), chap. I, resolution 1, annex; *Report of the Ad Hoc Committee of the Whole of the twenty-first special session of the General Assembly, Official Records of the General Assembly, Twenty-first special session, Supplement No. 3 (S-21/5/Rev.1)*.

⁵ Copenhagen Declaration on Social Development, adopted by the World Summit for Social Development on 12 March 1995, *Report of the World Summit for Social Development, Copenhagen, 6-12 March 1995* (United Nations publication, Sales No. E.96.IV.8), chap. I,

resolution 1, annex; *Report of the Ad Hoc Committee of the Whole of the twenty-fourth special session of the General Assembly, Official Records of the General Assembly, Twenty-fourth special session, Supplement No. 3 (A/S-24/8/Rev.1)*.

⁶ Istanbul Declaration on Human Settlements and Habitat Agenda, adopted by the second United Nations Conference on Human Settlements (Habitat II) on 14 June 1996, *Report of the United Nations Conference on Human Settlements (Habitat II), Istanbul, 3-14 June 1996* (United Nations publication, Sales No. E.97.IV.6), chap. I, resolution I, annexes I and II; *Report of the Ad Hoc Committee of the Whole of the twenty-fifth special session of the General Assembly, Official Records of the General Assembly, Twenty-fifth special session, Supplement No. 3 (A/S-25/7/Rev.1)*.

⁷ Durban Declaration and Programme of Action, adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 8 September 2001 (A/CONF.189/12 and Corr.1), chap. I.

⁸ Johannesburg Declaration on Sustainable Development and Plan of Implementation, adopted by the World Summit on Sustainable Development on 4 September 2002, *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 1, annex and resolution 2, annex.
