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110th Assembly of the Inter-Parliamentary Union

The proceedings of the 110th Assembly¹ opened at the *Centro de Convenciones Sheraton Centro Histórico* in Mexico City on the morning of Monday, 19 April, with the election by acclamation of Mr. Enrique Jackson Ramírez, President of the Senate of Mexico, as President of the Assembly.

On the morning of Tuesday, 20 April, during the General Debate on the political, economic and social situation in the world, the Assembly heard an address by Ms. Jessica Lange, UNICEF Goodwill Ambassador, who highlighted the role of parliamentarians in the protection of children and recalled their duties in the fields of legislative oversight and advocacy to prevent the abuse and exploitation of children. On the same occasion, the IPU and UNICEF launched a joint *Handbook for Parliamentarians on Child Protection* and invited Members to make use of the Handbook and ensure follow-up with concrete action at the national level.

In the afternoon, the Assembly was addressed by the Minister for Foreign Affairs of Mexico, Mr. Luis Ernesto Derbez, who emphasized that the Federal Government of Mexico shared the concerns of the Inter-Parliamentary Union in its work to promote dialogue and cooperation in the search for peace and security. He described the history of his country's diplomacy, marked by continuity and enriched by new principles, saying that Mexico had a duty to defend the weaker nations and strive for a more just world order. He then presented the six pillars of the diplomatic strategy of the Government of President Fox, namely, protecting human rights, defending Mexicans living abroad, upholding multilateralism and international law, disseminating the culture of Mexico, promoting Mexico economically and commercially, and, lastly, giving priority to relations with the country's principal strategic allies.

1. Inaugural Ceremony

The 110th Assembly of the Inter-Parliamentary Union was inaugurated on 18 April at a ceremony in the *Teatro de la Ciudad* in the presence of His Excellency the President of the United States of Mexico, Mr. Vicente Fox Quesada. Inaugural addresses were delivered by Mr. Enrique Jackson Ramírez, President

of the Mexican Senate, Mr. Danilo Türk, Representative of the Secretary-General of the United Nations and Assistant Secretary General for Political Affairs, and Mr. Sergio Páez, President of the Inter-Parliamentary Union. The ceremony concluded with an address by the President of the Republic, who declared the 110th Assembly of the Inter-Parliamentary Union officially open.

2. Participation

Delegations of the Parliaments of the following 122 countries took part in the work of the Assembly²: Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Czech Republic, Democratic Republic of the Congo, Denmark, Ecuador, Egypt, El Salvador, Estonia, Ethiopia, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, Guinea, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Latvia, Lebanon, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Malaysia, Mali, Malta, Mauritania, Mexico, Monaco, Mongolia, Morocco, Mozambique, Namibia, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Papua New Guinea, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Rwanda, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia and Montenegro, Singapore, Slovakia, Slovenia, Spain, Sudan, Suriname, Sweden, Switzerland, Syrian Arab Republic, Thailand, The former Yugoslav Republic of Macedonia, Togo, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, Uruguay, Venezuela, Viet Nam, Yemen, Zambia, and Zimbabwe.

The following Associate Members also took part in the Assembly: the Andean Parliament, the Central American Parliament, the European Parliament, the Latin American Parliament, and the Parliamentary Assembly of the Council of Europe.

Observers included representatives of: (i) Palestine; (ii) the United Nations system: United Nations, the

¹ The resolutions and reports referred to in this document and general information on the Mexico City session are available on the IPU Web site (www.ipu.org).

² For the complete list of IPU membership, see page 21.

Office of the United Nations High Commissioner for Refugees (UNHCR), United Nations Children's Fund (UNICEF), United Nations Volunteers (UNV), International Labour Organization (ILO), United Nations Educational, Scientific and Cultural Organization (UNESCO), World Health Organization (WHO), International Fund for Agricultural Development (IFAD); (iii) Council of Europe, League of Arab States; (iv) African Parliamentary Union (APU), Arab Inter-Parliamentary Union, Assembly of the Western European Union (WEU), Confederation of Parliaments of the Americas, Association of European Parliamentarians for Africa (AWEPA), Indigenous Parliament of the Americas, Interparliamentary Assembly of the Eurasian Economic Commission, Inter-Parliamentary Assembly of the Commonwealth of Independent States (CIS), Maghreb Consultative Council, Nordic Council, Parliament of the Economic Community of West African States (ECOWAS), Parliamentary Assembly of the Black Sea Economic Cooperation (PABSEC), Parliamentary Assembly of the Union of Belarus and the Russian Federation, Parliamentary Union of the Organization of Islamic Conference Members (PUOICM); (v) Amnesty International, International Committee of the Red Cross (ICRC), International Federation of Red Cross and Red Crescent Societies (IFRC); (vi) International Institute for Democracy and Electoral Assistance (International IDEA).

Of the total of 1,197 delegates who attended the Assembly, 616 were members of national parliaments. The parliamentarians included 31 presiding officers of parliaments, 37 deputy presiding officers and 162 women parliamentarians (26.3%).

3. Choice of an Emergency Item

At the beginning of the consideration of the item, the Assembly had before it two requests for the inclusion of an emergency item. The first proposal was submitted by the delegations of Indonesia and Lebanon, with the support of the Arab Groups, under the title *The role of parliaments in stopping acts of violence, and the building of the separation wall, in order to create conditions conducive to peace and a lasting solution to the Palestinian-Israeli conflict.* The second proposal was presented by the Twelve Plus Group and the Latin American Group under the title *The role of parliaments in the fight against terrorism: promoting a peaceful dialogue among cultures and civilisations.*

A third proposal was presented by the delegation of Mexico under the title *The role of parliaments and*

the IPU in ensuring respect for international law and the fulfilment of the decisions of international institutions. In presenting the item, the delegate of Mexico drew attention to the need to respect the findings of the International Court of Justice which had recently called for a review of the death sentences handed down by US courts on 51 Mexican citizens. The IPU had repeatedly called for respect for international law and taken position against the death penalty. Nonetheless, the Steering Committee had ruled that the proposal was not admissible under the stringent rules governing the emergency item.

Following statements by the delegations of Indonesia and Spain on behalf of the authors of the two proposals, a vote was taken by roll-call with the following outcome:

- For the item proposed by the delegation of Indonesia and Lebanon, on behalf of the Arab Groups: 810 votes to 252, with 223 abstentions (see page 34 for details of the vote);
- For the item proposed by the delegations of the Twelve Plus Group and the Latin American Group: 732 votes to 364, with 186 abstentions (see page 35 for details of the vote).

Having received both the required two-thirds majority and the highest number of affirmative votes, the proposal submitted by Indonesia and Lebanon, on behalf of the Arab Groups, was added to the agenda as item 9 (see page 8 below).

4. Proceedings and Decisions of the Assembly and its Standing Committees

- (a) General Debate on the political, economic and social situation in the world (Item 3)

The General Debate on the political, economic and social situation in the world, under the overall theme of *Reconciliation and Partnership*, took place in the morning and afternoon of Monday, 19 April, Tuesday, 20 April, and Thursday, 22 April. A total of 119 speakers from 110 delegations took part in the debate, which was chaired by the President of the Assembly. During the various sittings, the President invited the Vice-Presidents from the delegations of Cameroon, Egypt, El Salvador, Ethiopia, Germany, Italy, Latvia, Republic of Korea, Switzerland, Syrian Arab Republic, and Uganda to replace him in the chair.

- (b) First Standing Committee: Peace and International Security

(i) *Promoting international reconciliation, helping to bring stability to regions of conflict, and assisting with post-conflict reconstruction*
(Item 4)

The item was considered both in the morning and afternoon of 19 April by the First Standing Committee (Peace and International Security), with the Committee President, Mr. E. Menem (Argentina), in the chair. In addition to hearing a report and preliminary draft resolution prepared by the co-Rapporteurs, Senator R. del Picchia (France) and Mr. R. V. Mongbé (Benin), the Committee was presented with amendments to the draft resolution submitted by the delegations of Belarus, Cuba, Germany, India, Indonesia, Israel, Japan, Jordan, Romania, Sweden and the United Kingdom. Sub-amendments were later received from the delegation of Slovenia.

During the debate on that item, a total of 56 speakers took the floor, including representatives from 52 countries, the European Parliament, United Nations Volunteers, Amnesty International, and Ms. S. Damen-Masri (Jordan), speaking on behalf of the Meeting of Women Parliamentarians. At the end of the second session, the Committee appointed a drafting committee composed of representatives of Algeria, Argentina, Belgium, Colombia, Gabon, Germany, Indonesia, Iran (Islamic Republic of), Morocco, Netherlands and Nigeria. The two co-Rapporteurs of the First Standing Committee were invited to participate as advisers in the work of the drafting committee.

The drafting committee met on 20 April and began by appointing Mr. P. Moriau (Belgium) as its president and Mr. B. Shehu (Nigeria) as rapporteur. It examined over 75 amendments and sub-amendments to the preliminary draft resolution. At the end of the deliberations, the drafting committee adopted the consolidated draft as a whole, by consensus.

On 21 April, the First Standing Committee considered the draft and made one further sub-amendment to it. Several delegations took the floor to express their views on some of the issues raised in the resolution and, subsequently, the draft resolution as a whole was adopted by consensus by the First Standing Committee.

On the afternoon of 23 April, the text of the resolution was presented to the Assembly by the designated rapporteur, Mr. P. Moriau (Belgium). Following the adoption of the resolution by consensus, two delegations expressed reservations

concerning certain paragraphs of the resolution. The delegation of the United Kingdom expressed its reservation with respect to the wording of the second paragraph of the preamble, in which it would have liked to see *the exceptionally grave cases of humanitarian catastrophe or genocide* included as a further exception to the exclusive power of the Security Council to decide on measures involving the use of armed force as defined in Chapter VII of the Charter. The delegation of India expressed a reservation to operative paragraphs 15 and 26.

Moreover, the delegations of Guatemala and Belgium sought clarifications regarding the meaning of operative paragraph 33, which called upon the IPU to play a more meaningful part in debates, forms of concerted action and negotiations involving peace and security through its Permanent Observer. The President of the First Standing Committee as well as the President of the Assembly confirmed that the intention was for the full membership of the institution and all its organs to make a concerted effort to that end.

The text of the resolution can be found on page 22.

(ii) *Choice of subject item and co-Rapporteurs for the First Standing Committee at the 111th Assembly*

Following a recommendation from its Bureau, the Committee decided to propose to the Assembly to include in the agenda of the 111th Assembly a subject item entitled *The role of parliaments in strengthening multilateral regimes for non-proliferation of weapons and for disarmament, in the light of new security challenges*. It also approved the nomination of Mr. J. Wilkinson (United Kingdom) as a co-Rapporteur on the item. The item and the nomination were subsequently approved by the Assembly, which also appointed Ms. S. Damen-Masri (Jordan) as co-Rapporteur.

(iii) *Activities of the Bureau of the First Standing Committee*

The Bureau met on 21 April with the Committee President, Mr. E. Menem (Argentina) in the chair. The Bureau examined proposals for the item to be debated by the First Standing Committee at the 111th Assembly as well as the candidatures of co-Rapporteurs for the item.

(c) Second Standing Committee: Sustainable Development, Finance and Trade

(i) *Working towards an equitable environment for international commerce: the issues of trade in agricultural products and the access to basic medicines* (Item 5)

The Committee held two sittings on 20 and 22 April with its President, Mr. E. Gudfinnsson (Iceland), in the chair. In addition to a report and preliminary draft resolution prepared by the co-Rapporteurs, Ms. O.A. Tamboura (Mali) and Mr. T. Colman (United Kingdom), the Committee had before it amendments to the draft resolution submitted by the delegations of Belarus, Belgium, Egypt, India, Indonesia, Japan, Jordan, Kuwait, Philippines and Sweden, as well as a sub-amendment submitted by Cameroon.

A total of 49 speakers from 43 countries and the World Health Organization took the floor during the debate. Following the debate, the Committee appointed a drafting committee composed of representatives of Belgium, Burkina Faso, Cameroon, Chile, China, Ecuador, Egypt, Japan, Switzerland, Russian Federation, Uganda and the United Kingdom. Five of the 12 members of the drafting committee were women parliamentarians.

The drafting committee met on 21 April. At the beginning of its work, it appointed Mr. P. Sendé (Cameroon) as its president and Ms. S. Mugerwa (Uganda) as rapporteur. The committee examined over 40 amendments and sub-amendments to the preliminary draft resolution and accepted nearly half of them, fully or in part. Some ten further amendments were accepted - if not in letter then in spirit, as their content was similar to that of already adopted amendments. Having resorted to voting on three occasions, the drafting committee adopted the consolidated draft as a whole, without a vote.

On 22 April, the Second Standing Committee considered the draft and made three sub-amendments to it, including one by a vote. A further sub-amendment tabled by the delegation of China to operative paragraph 5 was rejected as a result of a vote. It was agreed, however, that the Rapporteur of the Committee would inform the Assembly of the reasons why a specific reference to China was retained in the paragraph and would also mention the fact that, according to the Chinese delegation, cotton subsidies no longer existed in China. The draft resolution as a whole was subsequently adopted by the Second Standing Committee, by consensus.

On the afternoon of 23 April, the draft was submitted to the plenary sitting of the Assembly. Following the adoption of the resolution by consensus, a number of delegations expressed their reservations concerning certain paragraphs of the resolution. The delegation of China had a reservation on operative paragraph 5 in view of the

fact that, following its accession to the World Trade Organization (WTO), China had already removed its cotton subsidies. The delegation of Latvia expressed its reservation on operative paragraph 7 because it considered necessary to maintain agricultural subsidies in Latvia as a transitional measure for some years to come. The delegations of Morocco and Burkina Faso expressed reservations on operative paragraph 7 on the grounds that they were in favour of the total elimination of all subsidies rather than a radical reduction of agricultural subsidies only. The delegation of Mexico also expressed its reservation on operative paragraph 7, as it believed that subsidies should be removed gradually and that countries should be free to decide how to proceed. Finally, the delegation of Australia announced that it did not wish to register a formal reservation on the text of the resolution but, by way of explanation of its vote, wished to point out that the resolution did not go far enough in the advocacy of a free, fair and equitable multilateral trading system and that, contrary to the suggestion in operative paragraph 7, all agricultural subsidies should be removed without delay.

The text of the resolution can be found on page 26.

(ii) Choice of subject item and co-Rapporteurs for the Second Standing Committee at the 111th Assembly

Following a recommendation of its Bureau, the Committee decided to propose to the Assembly to include in the agenda of the 111th Assembly an item entitled *The role of parliaments in preserving biodiversity*. It also approved the nomination of Ms. S. Mugerwa (Uganda) and Mr. P. Günter (Switzerland) as co-Rapporteurs on the item. The item and nominations were subsequently approved by the Assembly.

(iii) Activities of the Bureau of the Second Standing Committee

The Bureau met on 21 April with the Committee President, Mr. E. Gudfinnsson (Iceland) in the chair. The Bureau examined proposals for the item to be debated by the Second Standing Committee at the 111th Assembly as well as the candidatures of co-Rapporteurs for the item.

Having been joined by representatives of the Thai National Assembly and the Brazilian National Congress, the Bureau then acted as the Preparatory Committee for the Parliamentary Meeting on the occasion of UNCTAD XI, to be held by the IPU in São Paulo (Brazil) on 11 and 12 June 2004. In that capacity, the Bureau examined preparations for the Meeting in São Paulo, exchanged views with regard

to the choice of its keynote speakers and considered the first draft of the declaration to be adopted by the Meeting at its final plenary.

(d) Third Standing Committee: Democracy and Human Rights

(i) *Furthering parliamentary democracy in order to protect human rights and encourage reconciliation among peoples and partnership among nations* (Item 6)

The item was considered on 20, 21 and 22 April by the Third Standing Committee (Democracy and Human Rights). The Committee held two sittings with its President, Ms. R. Kadaga (Uganda), in the chair. The First Vice-President of the Committee, Mr. Jay-Kun Yoo (Republic of Korea), also chaired the proceedings during the first sitting of the Committee on 20 April. The Committee had before it a report and a draft resolution prepared by the co-Rapporteurs, Ms. L. Salas-Salazar (Costa Rica) and Mr. K. Chutikul (Thailand), as well as amendments to the draft resolution submitted by Andorra, Cuba, Egypt, France, Germany, Indonesia, Japan, Jordan, Romania, Sweden and the United Arab Emirates, and sub-amendments submitted by Switzerland.

A total of 45 speakers took the floor during the debate. Following the debate, the Committee appointed a drafting committee composed of the representatives of Algeria, Australia, India, Indonesia, Italy, Kenya, Lebanon, Nigeria, Sweden, Uruguay and Venezuela. The two co-Rapporteurs assisted the drafting committee in its work. The Secretary General of International IDEA, Ms. K. Fogg, also assisted the committee as an adviser.

The drafting committee met on 21 April. At the beginning of its work, it appointed Mr. U. Chukwumerije (Nigeria) as its president and Ms. A. M. Narti (Sweden) as rapporteur. The drafting committee examined in detail the draft resolution prepared by the co-Rapporteurs and enhanced it with some of the proposed amendments.

On 22 April, the Third Standing Committee considered the consolidated draft resolution and adopted it, by acclamation, with minor amendments. On the afternoon of 23 April, the decision was endorsed by consensus by the plenary sitting of the Assembly. In so doing, the Assembly approved the recommendation by the Third Standing Committee to encourage the IPU and International IDEA to strengthen their cooperation, especially as it related to the conclusions of the 110th Assembly.

Following adoption of the resolution, the delegation of India expressed reservations regarding operative paragraph C.9 on the International Criminal Court. Although it supported the whole resolution, it was not in a position to support that particular paragraph, since the jurisdiction of the Court did not cover terrorism.

The text of the resolution can be found on page 30.

(ii) *Choice of subject item and co-Rapporteurs for the Third Standing Committee at the 111th Assembly*

Acting on a recommendation of its Bureau, the Committee decided to propose to the Assembly the inclusion on the agenda of the 111th Assembly of a subject item entitled *Beijing + 10: an evaluation from a parliamentary perspective*. It further approved the nomination of Ms. M. Mensah-Williams (Namibia) and Mr. J. Winkler (Germany) as co-Rapporteurs on the item. The item and nominations were subsequently approved by the Assembly.

(iii) *Other activities of the Bureau of the Third Standing Committee*

The Bureau of the Third Standing Committee discussed issues relating to child protection. The Bureau welcomed the production and launch of the *IPU/UNICEF Handbook for Parliamentarians on Child Protection* which had been developed with its input. It recommended that Members ensure adequate follow-up to the Handbook by (a) ensuring its dissemination in all parliaments; (b) translating the Handbook into the national languages; (c) organising a launch of the Handbook; and (d) developing a timetable for child protection legislation and oversight.

The Bureau also suggested that the IPU regularly monitor progress made in the field of child protection legislation. It discussed the idea of setting up an online resource centre on child protection that could form an integral part of the IPU Web site, and could feature an inventory of legislation and oversight work in different countries, and best practices for child protection.

Lastly, the Bureau expressed the wish that IPU Standing Committees consider addressing child protection issues at future Assemblies.

(e) Emergency Item

The role of parliaments in stopping acts of violence, and the building of a separation wall, in order to create conditions conducive to peace and a lasting solution to the Palestinian-Israeli conflict (Item 9)

On Tuesday, 21 April, the Assembly decided to include the topic on its agenda. It then decided to refer it to a drafting committee.

The drafting committee appointed Mr. J.E. Bermúdez-Méndez (Mexico) as its president and Ms. S. Carstairs (Canada) as rapporteur. It was composed of representatives of the delegations of

Australia, Canada, Egypt, Indonesia, Israel, Mexico, Morocco, Namibia and Sudan. The drafting committee met on Wednesday, 21 April. It adopted a draft resolution by consensus, with the exception of one paragraph referring to targeted assassinations and suicide bombings, on which Israel expressed a reservation.

During the last sitting of the Assembly on Friday, 23 April, and in keeping with Article 28.1 of the Statutes, the Assembly unanimously approved the proposal to modify Articles 10.3 and 15.2(c) of the Statutes following the favourable opinion expressed by the IPU Governing Council. The amendments were necessary to adapt the terms of those Articles to the interpretative clauses regarding the question of gender distribution within delegations to the Assembly.

On Friday 23 April, the draft resolution (see page 36) was adopted by consensus by the Assembly. The delegation of Israel expressed a reservation regarding the wording of operative paragraph 2. The delegation of the Islamic Republic of Iran expressed reservations on those parts of the text which might

5. Amendments to the Statutes and Rules (Item 7)

174th Session of the Governing Council of the Inter-Parliamentary Union

1. Membership

At its first sitting on 19 April, the Governing Council approved requests for reaffiliation from the Parliaments of the Democratic Republic of the Congo and Liberia, bringing the total IPU membership to 140.

The Governing Council heard a report of the Executive Committee on the structure and functioning of IPU Members and their participation in the Organisation's work, and endorsed its conclusions (see page 38).

2. Financial Results for 2003

The Governing Council considered the Annual Financial Report and Audited Financial Statements for 2003, along with the report of the External Auditor, and a progress report on the implementation of the audit recommendations from the previous year. The Financial Statements showed that the IPU had an operating surplus of

CHF 106,823 in 2003 and had underspent the budget under most headings.

Ms. I. Udre (Latvia) presented the report of the Internal Auditors. The Internal Auditors applauded the financial performance of the IPU in 2003 and the presentation of the Financial Statements. Ms Udre addressed three issues of minor non-compliance with International Public Sector Accounting Standards and drew the attention of the Governing Council to the major issue of the Pension Fund. The Internal Auditors endorsed the decision of the Executive Committee for the IPU to apply for membership in the United Nations Joint Staff Pension Fund, and suggested that any residual actuarial deficit of the Pension Fund at the end of 2004 should be reported in the following year's Financial Statements.

On the recommendation of the Internal Auditors, the Governing Council approved the Financial Statements, approved the transfer of the operating surplus to the Working Capital Fund, approved the

write-off of the accounts receivable from Georgia, Liberia, Marshall Islands, Malawi, Paraguay and the United States in the amount of CHF 6,991,269 in accordance with Rule 10.2 of the Financial Regulations, and sanctioned the Secretary General's financial administration of the IPU in 2003.

3. Financial Situation

The Governing Council was given an overview of the current financial situation of the IPU. Expenditures during the first three months of the year were over budget on account of the first Assembly being held in Mexico rather than in London. The Secretary General said that he would endeavour to make savings in other areas to achieve a balanced budget at the end of the year. With respect to the decision to extend the second Assembly of the year from three days to four, the Governing Council approved the payment of the additional expense through a supplementary appropriation in the amount of CHF 66,135 being the amount of contributions and payments received from the two newly affiliated Members of the IPU.

4. Amendments to the Statutes and Rules

The Governing Council formally approved the amendments to Articles 10.3 and 15.2(c) of the Statutes that were necessary to adapt the terms of those Articles to the interpretative clauses regarding the question of gender distribution within delegations to the Assembly. It also gave its approval in principle to amendments to Assembly Rule 17.1 and Standing Committee Rule 12.2 to make it possible for the meeting of Women Parliamentarians or its Coordinating Committee to submit amendments to the draft resolutions debated in the Standing Committees. The latter amendments would be submitted to the 175th session of the Council and to the 111th Assembly for formal approval and adoption.

5. Cooperation with the United Nations System

The Governing Council was provided with an overview of cooperation between the IPU and the United Nations and its different departments, programmes and agencies. It commended the many joint activities that had been carried out in recent months with the United Nations Development Programme (UNDP), the United Nations Volunteers (UNV), the United Nations Children's Fund (UNICEF), the United Nations Development Fund for Women (UNIFEM), the Office of the United Nations High Commissioner for Human Rights (UNHCHR), the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Organization for Education, Science and Culture (UNESCO).

The Governing Council took note of the Executive Committee's recommendation that negotiations be pursued with UNAIDS and UNICEF to strengthen the IPU's capacity to address issues relating to HIV/AIDS and child protection in a more systematic fashion. That would include the possibility of establishing parliamentary sub-committees within the IPU.

The Governing Council was also informed of the efforts deployed by the IPU to provide concrete support to the United Nations in the context of the Union's offer to provide assistance for the building of democratic institutions in Iraq. The Council approved plans made by the IPU to convene a meeting of Speakers of Parliaments of the countries neighbouring Iraq in Amman, Jordan, on 12 and 13 May 2004 at the invitation of the Speaker of the House of Representatives of Jordan.

The Council discussed a report submitted by the Executive Committee on the forthcoming report of the United Nations High Level Panel on relations between the United Nations and civil society, including parliamentarians and the private sector (the Cardoso Panel). Many delegates expressed serious misgivings about the approach and recommendations of the Panel because in seeking to establish parliamentary committees that would be subordinate to the authority of an inter-governmental organisation such as the United Nations, it did not respect the elementary principles of the separation and independence of powers, and fair representation and democratic legitimacy. Moreover, the proposal put forward parliamentary mechanisms within the United Nations that were almost identical to ones already existing within the IPU.

At the end of the debate, the Governing Council endorsed the report of the Executive Committee. It requested the President and the Secretary General to seek a meeting with the Secretary-General of the United Nations to convey to him the concerns of the Union. It thanked the Brazilian representative on the Executive Committee for his offer to approach the panel President, former President Cardoso of Brazil. Finally, the Council also called on all Members to make their concerns known to the United Nations through their country's representatives at the United Nations.

6. Second World Conference of Speakers of Parliaments

The Council noted the report of the first meeting of the Preparatory Committee for the Second World Conference of Speakers of Parliaments in 2005, which had met in Geneva on 26 and 27 January 2004 (see page 40).

The Committee had reviewed the background to the Conference, noting that the declaration adopted by the Speakers at their first Conference in 2000 had marked a significant turning point in parliamentary involvement in multilateral relations. Nevertheless, it remained to be seen how deeply its intent had percolated through to the day-to-day business of national parliaments. It had decided that a questionnaire would be sent to all Speakers of Parliaments to evaluate progress achieved on the basis of the commitments made by the Speakers attending the First Conference. The questionnaire would also include a section on legislative and oversight steps taken in national parliaments to promote both the knowledge and attainment of the Millennium Development Goals. Members were encouraged to submit their completed questionnaires as soon as possible (for the text of the questionnaire see page 43).

The Committee had also decided to explore the possibility of establishing indicators relating to parliamentary democracy. The IPU Secretariat had been asked to seek the assistance of experts in preparing a comprehensive information document which the Committee would examine at its next meeting, to be held in Budapest on 2 and 3 September 2004.

7. Inter-Parliamentary Foundation for Democracy

The Governing Council heard a report from the Secretary General on progress in the establishment

of the Inter-Parliamentary Foundation for Democracy. Pursuant to the decision taken by the Council at its 173rd session, the President of the Inter-Parliamentary Union had appointed the members of the Board of the Foundation. The Secretary General had worked with a Swiss lawyer to draft the by-laws of the Foundation, and during their meeting in Mexico City, the members of the Board had reviewed and amended the by-laws. The Secretary General would now begin negotiations with the Swiss authorities with a view to registering the Foundation under Swiss law, whereupon it would become operational.

8. Democracy and Strengthening Parliaments

The Governing Council heard a progress report on recent activities of the Union intended to promote democracy. The Union was increasingly adopting an integrated approach to democracy through strengthening the capacity of parliaments to ensure that members of parliament could perform their role of legislating, overseeing the government and representing the people. It sought to ensure that parliaments could play a more prominent role in protecting and promoting human rights as well as fostering policies enabling men and women to participate equally in decision-making processes. Furthermore, during the past year, the Union had been very active in supporting parliaments in conflict and post-conflict situations.

9. Recent Specialised Conferences and Meetings

The Governing Council took note of the results of the Parliamentary Panel within the framework of the World Summit on the Information Society that took place in Geneva on 11 December 2003. It also heard a report on the Seminar for Chairpersons and Members of Parliamentary Human Rights Bodies, which took place in Geneva from 15 to 17 March 2004 (see page 46).

10. Reports of Plenary Bodies and Specialised Committees

At its sitting on 23 April, the Governing Council took note of the reports on the activities of the Meeting of Women Parliamentarians and its Coordinating Committee, the Committee on the Human Rights of Parliamentarians, the meeting of Representatives of Parties to the CSCM process, the Committee on Middle East Questions, the Committee to Promote

Respect for International Humanitarian Law, and the Gender Partnership Group (see page 14).

The Governing Council also filled vacant positions on the Committee on the Human Rights of Parliamentarians, the Committee on Middle East Questions, and the Group of Facilitators for Cyprus (see page 18).

11. Future Inter-Parliamentary Meetings

The Governing Council approved the dates for the 111th and 112th Assemblies, the latter to be held in

Manila, Philippines. In addition to the meetings listed as previously approved, the Council approved the Meeting of Speakers of Parliaments of the countries neighbouring Iraq on the constitutional process in Iraq, to be held on 12 and 13 May in Amman, Jordan, and the second Meeting of the Preparatory Committee of the Second World Conference of Speakers of Parliaments, to be held in Budapest, Hungary, on 2 and 3 September 2004.

242nd Session of the Executive Committee

The Executive Committee held its 242nd session in Mexico City on 15, 16, 17 and 22 April. The President of the IPU chaired the meetings. The following members and substitutes took part in the session: Mr. J. Jorge (Brazil), Mr. Lü Congmin (China), Ms. P. Larsen (Denmark), Mr. R. Salles (France), Ms. Z. Rios-Montt (Guatemala), Mr. Y. Yatsu (replacing Mr. T. Kawara) (Japan), Mr. F. Ole Kaparo (Kenya), Ms. M. Mensah-Williams (Namibia), Mr. P. Rattanapian (Thailand), Mr. O. Natchaba (Togo), replaced on 22 April by Mr. K. Gbetogbe, Mr. I. Ostash (Ukraine), and Mr. J. Austin (United Kingdom).

Mr. M. Al-Saqr (Kuwait), Mr. H. Al-Hadi (Libyan Arab Jamahiriya), Mr. S. Fazakas (Hungary) and Ms. G. Mahlangu (South Africa) were absent. Mr. Fazakas was replaced on 22 April by Mr. Z. Rockenbauer.

The proceedings of the Executive Committee were devoted to discussing and making recommendations on agenda items to be addressed by the Governing Council. The other matters considered by the Committee are summarised below.

The Committee reviewed the situation of the transitional parliaments in Angola, Burundi and Rwanda. Following elections in Rwanda, which brought an end to the transition period, it decided to cease its review of the Rwandan Parliament.

The Committee discussed the need to increase the membership of the Union in order to make it a truly universal body. It reviewed a list of non-member parliaments and the members agreed on which parliaments they would target in an endeavour to convince them of the benefits of membership.

The Committee reviewed the progress in the implementation of the IPU reforms, focusing its attention on the functioning of the Standing Committees. On Thursday, 22 April, it held a sitting with the leaders of the geopolitical groups and the Presidents of the Standing Committees to discuss the matter. At both sittings, the delegates expressed satisfaction with the outcome of the reforms. They also emphasised that it was too early to come to any definitive conclusions on the functioning of the new structures, while stressing the need for the co-Rapporteurs to be experts on their assigned subjects, for the deadlines to be scrupulously respected and for the Bureaux to assume a more active role.

The Committee was updated on the proposal by the Secretary General for the Union's Secretariat to join the United Nations Joint Staff Pension Fund (UNJSPF). It authorised the Secretary General to submit a formal request for membership of the Fund with a view to joining on 1 January 2005.

Noting that the IPU scale of contributions no longer corresponded to the United Nations scale on which it was originally based, it established a working group composed of members from Brazil, France, Japan, Namibia, and the United Kingdom to review the scale and report to its next session.

The Secretary General informed the Committee that he had appointed two new staff members, an Information Systems Officer and an English Language Translator-Reviser.

Meeting and Coordinating Committee of Women Parliamentarians

The Ninth Meeting of Women Parliamentarians took place on 18 April 2004 and brought together 103 women MPs from the following 70 countries: Albania, Algeria, Andorra, Argentina, Armenia, Australia, Bangladesh, Belarus, Belgium, Benin, Burkina Faso, Cameroon, Canada, Chile, China, Colombia, Côte d'Ivoire, Croatia, Cuba, Denmark, Egypt, Ethiopia, Finland, France, Gabon, Germany, Ghana, Guatemala, Guinea, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan,

Jordan, Kenya, Lebanon, Liechtenstein, Mali, Mexico, Monaco, Mongolia, Morocco, Mozambique, Namibia, Niger, Nigeria, Norway, Pakistan, Republic of Korea, Romania, Russian Federation, Rwanda, Slovakia, Spain, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Uganda, the United Kingdom, Uruguay, Venezuela, Yemen, Zambia and Zimbabwe. Some men parliamentarians also took part. Observers from the Andean Parliament,

Palestine, UNESCO, WHO, ECOWAS, UNICEF and UNHCR also attended the proceedings.

In the absence of Ms. G. Malhangu (South Africa), President of the Coordinating Committee of Women Parliamentarians, the meeting was opened by the First Vice-President of the Committee, Ms. Y. Kamikawa (Japan). The Meeting began its work by electing Ms. D.M. Sauri Riancho (Mexico) as President. Ms. Sauri's opening statement was followed by speeches by the President of the Assembly, and the President of the Inter-Parliamentary Union.

Ms. M. Xavier (Uruguay) presented a brief report on the Coordinating Committee's previous two sessions, in which she reviewed the work achieved by the Committee. Mr. R. Salles (France) then presented his report on the work of the Gender Partnership Group. Mr. Salles drew attention to the problems inherent in ensuring that there were at least three women members of the Executive Committee in keeping with Article 23.2 of the IPU Statutes. The Group's work is presented on page 16.

As in previous years, the Meeting discussed its contribution to the work of the Assembly. It was decided that the women MPs would discuss the item before the First Standing Committee (Peace and International Security), entitled *Promoting international reconciliation, helping to bring stability to regions of conflict, and assisting with post-conflict reconstruction*. Ms. S. Damen-Masri (Jordan) was asked to report on the Meeting's debate to the Standing Committee. Her summary was approved by the Meeting and subsequently presented orally to the First Standing Committee.

There followed a dialogue between men and women on gender-sensitive budgets. The session was introduced by two panellists, Ms. W. Byanyima (Uganda) and Mr. C. Jiménez Macías (Mexico). The lively debate afforded valuable insights into the budget experience in various parliaments, and provided an opportunity to present and distribute the *Handbook for Parliamentarians on Parliament, the Budget and Gender*, jointly produced by the Inter-Parliamentary Union, the United Nations Development Programme (UNDP), the World Bank Institute (WBI), and the United Nations Development Fund for Women (UNIFEM).

The Meeting was briefed on the IPU's latest analysis of the situation of women in parliament after elections held in 2003. A number of interesting ideas were put forward on strategies to facilitate women's entry into politics, including from a

delegate of Rwanda, where women now accounted for 48.8% of all parliamentarians, the highest proportion reached to date.

The Meeting went on to discuss cooperation with the United Nations on gender issues and stressed the importance of follow-up to the IPU/UN *Handbook for Parliamentarians on the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol* and enhancing the role of Parliament in the implementation of the Convention.

The Meeting of Women Parliamentarians met again on 22 April to elect the regional representatives and the Bureau of the Coordinating Committee of Women Parliamentarians.

The Coordinating Committee of Women Parliamentarians met on 18, 22 and 23 April. The sitting of 18 April served to prepare the work of the Meeting of Women Parliamentarians. The Committee also agreed that the IPU should contribute to the review of progress made in the area of women's rights, 10 years after the Fourth World Conference on Women held in Beijing. The Coordinating Committee submitted a proposal for the item to be debated at the 111th Assembly in the Third Standing Committee. The proposal, entitled *Beijing +10: An evaluation from a parliamentary perspective* was subsequently proposed by the German delegation and later endorsed by the Assembly.

Further to the elections held on 22 April, the new Coordinating Committee of Women Parliamentarians met briefly that same day (the current composition is presented on page 19). It elected Ms. J. Fraser (Canada) as President, and Ms. S. Damen-Masri (Jordan) and Ms. L. Madero (Mexico) as First and Second Vice-Presidents respectively. The proposals were later endorsed by the Meeting of Women Parliamentarians.

Under the chairmanship of its new President, the sitting on 23 April addressed the work of women MPs during the 110th Assembly and debated a future work plan. Concern was raised with respect to attendance levels at the Meeting of Women Parliamentarians, particularly toward the end of the afternoon when geopolitical groups also met, and it was suggested that the IPU address that problem. The Committee agreed that the panel on the *Commercial Sexual Exploitation of Children* had been particularly successful, generating lively discussion and specific recommendations (see page 52). The Committee reiterated its support for the

establishment of a sub-committee on the question of child protection, and urged the IPU Executive Committee to give serious consideration to the proposal. It was also suggested that a panel be organised for the 112th Assembly on the subject of *Violence Against Women and Children*.

Finally, the Committee considered draft amendments to the IPU Statutes which would allow the Meeting of Women Parliamentarians, or its

Coordinating Committee, to have a bearing on the work of the Standing Committees. The Committee appointed two members to prepare brief reports on the gender aspects of the items to be considered by the First and Second Standing Committees at the 111th Assembly in September 2004. It also began coordinating women's input into the Third Standing Committee's item on Beijing +10.

Subsidiary Bodies and Committees of the Governing Council of the Inter-Parliamentary Union

1. Committee on the Human Rights of Parliamentarians

The Committee on the Human Rights of Parliamentarians held its 105th Session from 18 to 22 April 2004. The following titular members participated in its work: Ms. A. Clwyd (United Kingdom), Mr. L. Hierro López (Uruguay), Ms. V. Nedvedova (Czech Republic) and Mr. M. Ousmane (Niger). Ms. M. J. Laloy (Belgium) attended in her capacity as substitute member.

Mr. J.P. Letelier (Chile), former President of the Committee and leader of the Committee's delegation which visited Zimbabwe from 28 March to 2 April 2004, was invited to submit an oral mission report to the members of the Committee.

The Committee conducted 11 hearings with delegations from countries in which it was examining cases, and with representatives of the sources.

The Committee examined a total of 50 cases concerning 163 MPs from 29 countries. It submitted 26 cases to the Governing Council (see pages 59 to 114 for text of resolutions). It also submitted to the Governing Council the report on the trial of Mr. M. Barghouti (Palestine) by Mr. S. Foreman, a lawyer and expert appointed by the Committee on the Human Rights of Parliamentarians in accordance with the resolution adopted by the Governing Council at its 173rd session (see page 101). The Committee also decided to annex to its resolution on the case of Mr. V. Gonchar (Belarus) the report *Disappeared persons in Belarus* by Mr. C. Pourgourides, Rapporteur of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe, appointed to clarify the circumstances of disappearances for allegedly political reasons in Belarus, a copy of which can be obtained from the IPU Secretariat, or

retrieved from the Web site of the Parliamentary Assembly of the Council of Europe.

The Governing Council, acting on the recommendation of the Committee, decided to close the public examination of the case of Mr. A. Klimov (Belarus) while authorising the Committee to continue the examination of the case under its confidential procedure, if deemed appropriate.

2. Meeting of Representatives of the Parties to the CSCM Process

The representatives of the parties to the process of the Inter-Parliamentary Conference on Security and Cooperation in the Mediterranean (CSCM) held their 22nd meeting on Thursday, 22 April 2004, with Mr. R. Salles (France) in the chair.

The session was attended by:

- Representatives from 17 of the 24 main participants: Algeria, Croatia, Egypt, France, Greece, Israel, Italy, Jordan, Libyan Arab Jamahiriya, Malta, Monaco, Morocco, Portugal, Slovenia, Spain, Tunisia and Turkey.
- Representatives of the following associate participants: (i) Germany, Russian Federation, the United Kingdom; (ii) Palestine; and (iii) the Arab Inter-Parliamentary Union, the Assembly of the Western European Union, and the Parliamentary Assembly of the Council of Europe.

The session was prepared by a meeting of the CSCM Coordinating Committee, held on Tuesday, 20 April, with Mr. R. Salles in the chair. It was attended by representatives from Egypt, France, Italy, Malta, Morocco, Slovenia, Spain and Tunisia, and a representative of the Mediterranean Women's Task Force. The meeting also heard a report on the

meeting of the Mediterranean Women Parliamentarians' Task Force chaired by Ms. E. Papadimitriou (Greece), in the absence of Ms. A. Vassiliou (Cyprus), that had been held earlier that day.

After an extensive exchange of views the representatives adopted the Summary of Decisions (see page 50) taken by the 28th Session of the CSCM Coordinating Committee held in Nice, 10 and 11 February 2004. In so doing they expressed support for convening a fourth CSCM in the early part of 2005, for which funding would be included in the IPU budget. That meeting would transform the CSCM process into a Parliamentary Assembly of Mediterranean States which would then be funded entirely by the participants.

The representatives agreed to continue discussing details regarding the functioning of the Assembly on the basis of the draft Rules of procedure prepared by the Parliament of Malta on which several members had provided comments both verbally and in writing.

The representatives proposed to hold a meeting of the Coordinating Committee open to all members of the CSCM process on the occasion of the 111th Assembly in Geneva. They recommended that the IPU submit a request for observer status at the Euro-Mediterranean Parliamentary Assembly (EMPA). Finally, they requested the IPU Secretariat to invite each CSCM member to designate a correspondent in order to facilitate the circulation of CSCM documents.

3. Committee on Middle East Questions

The Committee on Middle East Questions met on 19 and 22 April, with Mr. F.M. Vallersnes (Norway) in the chair. It was attended by three other titular members, Mr. O. Bah (Guinea), Mr. S. Al-Alfi (Egypt), Ms. P. Chagsuchinda (Thailand), and two substitute members, Mr. H. Raidel (Germany) and Ms. P. Torsney (Canada), replacing Mr. T. Hadjigeorgiou (Cyprus) and Ms. M. Bergé-Lavigne (France). On the first day, the Committee held a hearing with representatives of the Knesset and the Palestinian National Council, attended also by members of the Jordanian and Egyptian delegations.

The Committee expressed its deepest concern regarding the situation in the region: on the one hand, suicide bombings against Israeli civilians and, on the other, extra-judicial killings and the repression of the entire Palestinian population. The Committee condemned the use of violence by both sides and

appealed to them to re-establish dialogue which, in the opinion of the Committee, was the only means of halting the escalating violence.

Referring to the present situation in the region, the Committee expressed its deep concern about the building of walls and fences. While admitting that Israel did need to protect its population against terrorist attacks, it deplored the fact that walls and fences were not being built along the Green Line, but instead inside the West Bank.

The Committee was briefed on progress in setting up the working group of Israeli and Palestinian elected representatives. While welcoming the establishment of the working group, the Committee deeply regretted that it had not been able to meet in Geneva, as planned, in December 2003 or January 2004.

The Committee requested its President and the Secretariat to pursue their efforts to organise a first meeting of the working group, if possible in a neutral place in the region, as it was crucial to establish institutional dialogue between the members of the Knesset and the members of the Palestinian Legislative Council.

Lastly, the Committee welcomed the inclusion on the agenda of the 110th Assembly of an item entitled *The role of parliaments in stopping acts of violence, and the building of the separation wall, in order to create conditions conducive to peace and a lasting solution to the Palestinian-Israeli conflict.*

4. Committee to Promote Respect for International Humanitarian Law

The Committee to Promote Respect for International Humanitarian Law (IHL) met on Wednesday, 21 April 2004, with Mr. Jay-Kun Yoo, Republic of Korea, in the chair. Representatives of the International Committee of the Red Cross (ICRC) and the Office of the United Nations High Commissioner for Refugees (UNHCR) also attended the meeting as observers.

The Committee assessed the dissemination of the two Handbooks for Parliamentarians which were produced with input from the IHL Committee. They welcomed the fact that the IPU-ICRC Handbook on *Respect for International Humanitarian Law* existed in 16 languages and the IPU-UNHCR Handbook on *Refugee Protection* in 24 languages. The Committee expressed its thanks to those parliaments which had translated the Handbooks and encouraged others to follow suit, in consultation with the IPU and the ICRC or UNHCR. All parliaments were invited to

organise a public launch of the Handbook(s) in parliament, once translated, with the participation of the IPU and the partner organisations concerned. The Committee also commended the positive working relationship that had been established with the two partner organisations and thanked them for their support.

The Committee discussed preparations for the Regional Parliamentary Conference on *Refugees in Africa: The Challenges of Protection and Solutions*, to be organised by the African Parliamentary Union, with the support of the IPU, UNHCR and the ICRC. The Conference, to be hosted by the Parliament of Benin, in Cotonou, from 1 to 3 June 2004, would focus on the rights of refugees and the identification of lasting solutions.

The Committee discussed ways and means of reviving parliamentary action to achieve universal accession to and implementation of the Ottawa *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Antipersonnel Mines and on their Destruction*. It recalled that a Review Conference on action taken since its entry into force would take place in 2004 in Nairobi, and invited the IPU and its Members to contribute to that assessment. It suggested that the IPU Secretary General write to the parliaments of the States concerned urging them to take all necessary steps to ratify or accede to it as soon as possible.

The Committee also took note of the results of the ICRC *Workshop on Landmines and the Convention on the Prohibition of Anti-personnel Mines in East Africa, the Great Lakes and the Horn of Africa Regions*, which had taken place in Nairobi, Kenya, from 2 to 4 March 2004 and recommended that its results be brought to the attention of national parliaments.

The Committee was finally briefed on the follow-up to the ICRC Conference on *The Missing*, in Geneva in February 2003. It recalled that there was a lack of legislation in many of the fields touching upon the issue and suggested, as a first task, that in cooperation with the ICRC, information on existing legislation and best practices should be collected.

5. Gender Partnership Group

The Gender Partnership Group held its 13th session, with the participation of Ms. M. Mensah-Williams (Namibia), Ms. Z. Ríos Montt (Guatemala), Mr. P. Rattanapian (Thailand) and Mr. R. Salles (France). Mr. Salles was appointed Moderator.

The Group had monitored the effect of the new provisions of the Statutes and Rules, regarding the composition of delegations to IPU Assemblies and the participation of women MPs in various statutory meetings. Of the 616 parliamentarians attending the 110th IPU Assembly, 162 (26.3%) were women. In Mexico City, 22 of the 123 (17.9%) delegations present were comprised only of men. That represented a slight increase compared with the Assembly in Geneva. None of the delegations in Mexico City were composed of women only. Regarding participation to the Governing Council, the Group noted the positive effects of the new Statutes and Rules. On the occasion of the 108th Inter-Parliamentary Conference (before the new Statutes and Rules had entered into force), women had represented 23.9% of delegates to the Council (53 of the 222), whereas at the 109th IPU Assembly, they had accounted for 31.7% of delegates (88 of the 278 delegates).

The Group expressed concern about those parliaments that had sent delegations without any women members to IPU Assemblies on more than three occasions. It considered it unacceptable that some delegations from parliaments that had a large number of women members did not include women in their delegations, and invited the IPU Secretary General to take stronger action in that regard.

Furthermore, the Group encouraged the IPU Secretary General to continue the practice of sending letters to those parliaments that had informed the IPU that their delegations would be single-sex. Prior to the Mexico Assembly, 13 delegations had received letters. Of those, three had changed the composition of their delegations to include women. Two other delegations had replied that, due to forthcoming elections, no women MPs were able to participate in the Assembly.

The Group continued its discussion on the question of a gender-sensitive IPU budget. It considered that institutionalising a gender perspective in the budget was an ongoing process that would require further monitoring, study and debate. The Group was presented with the latest IPU *Handbook for Parliamentarians on Parliament, the Budget and Gender*. In an effort to maximise the publicity and circulation of the Handbook, the Group encouraged Member Parliaments to foster awareness and use of the book, for example by organising specific events or launches.

The Group had continued its debate on mechanisms for monitoring progress made in countries where parliaments did not include women. It noted that

nine countries had no women in their parliaments: Kuwait, the Federated States of Micronesia, Nauru, Palau, Saudi Arabia, the Solomon Islands, Tonga, Tuvalu and the United Arab Emirates.

The Group agreed that the IPU Secretary General should continue to write to those countries to request information on progress made, and to propose assistance. It also suggested inviting some delegations to attend the Gender Partnership Group meetings, in order to establish a dialogue on the question.

The Group continued its discussion on the difficulty of meeting the requirements of Article 23.2 of the IPU Statutes which states that "At least three of the [15] members elected [to the Executive Committee] must be women", in addition to the President of the Coordinating Committee of Women

Parliamentarians, who is an *ex officio* member of the Executive Committee.

In the light of difficulties faced by some geopolitical groups, the complexity of the matter and the recent reform of the IPU Statutes and Rules, the Group agreed that, for the time being, it would not be appropriate to propose new amendments to the IPU Statutes on the issue. Instead, it considered that it was important to raise awareness within the geopolitical groups before each election to the Executive Committee. It also asked the Secretariat to regularly provide the geopolitical groups with relevant information so that they could discuss the issue and coordinate their candidatures in order to ensure that, at any given time, there were at least three elected women members on the Committee.

Other events

1. Panel on the *Commercial Sexual Exploitation of Children*

A panel on the *Commercial Sexual Exploitation of Children*, organised in cooperation with UNICEF, was held on 21 April. It was chaired by Ms. L. Burgos Ochoa (Mexico), and the panellists included MPs from Namibia, the Philippines and the United Kingdom, a representatives of UNICEF and a representative of Casa Alianza, a Mexican non-governmental organisation. The UNICEF Goodwill Ambassador, Ms. J. Lange, also took part.

Participants heard that every year, more than 2 million children worldwide were forced into child prostitution, trafficked and sold for sexual purposes or used in child pornography. They were subject to multiple violations of their human rights, including the right to education, health, and protection from abuse and exploitation. In addition to the denial of their most fundamental rights, the child victims were robbed of their dignity, innocence and childhood.

In the lively debate that ensued, participants highlighted the grave, complex and far-reaching nature of the problem. Combating it would require the assistance and cooperation of all sectors concerned (public and private) that should work towards its prevention and elimination at the national, regional and international levels. Participants agreed that parliamentarians were in a unique position to create the necessary political and legislative environment to combat the abuse, and to facilitate the rehabilitation of child victims.

Participants insisted on the need to ensure efficient follow up to the panel and its recommendations which may be found on page 52.

2. Panel on *Human Rights: a casualty of the fight against terrorism?*

On 20 April a panel discussion was held on the question *Human Rights: a casualty of the fight against terrorism?*. The discussion, chaired by Mr. F. Margáin Berlanga, Chairman of the External Relations Committee of the Mexican Senate, opened with presentations by Mr. A. Radi, Speaker of the House of Representatives of Morocco, Mr. D. Türk, United Nations Assistant Secretary-General for Political Affairs, Mr. J. Saunders, Deputy Asia Director, Human Rights Watch, and Mr. H.A. Relva, Amnesty International. A lively discussion followed, with delegates expressing diverse viewpoints and raising a number of pertinent legal and practical questions, which were addressed by the panellists. Among the main topics were the inter-relationship between poverty and terrorism, the need to eradicate terrorism by attacking its root causes, and the problem of how to defend the rule of law and the rights of persons presumed to be guilty in a context of popular support for anti-terrorist measures, many of which were inconsistent with due process.

Elections and appointments

1. Presidency of the 110th Assembly

Mr. E. Jackson Ramírez, President of the Mexican Senate, was elected President of the Assembly.

2. Executive Committee

The Committee elected Mr. R. Salles (France) as Vice-President until the end of 2004.

The Governing Council elected Ms. K. Komi (Finland) as member of the Executive Committee for a four-year term expiring in April 2008.

Lastly, Ms. J. Fraser (Canada) became an *ex officio* member of the Executive Committee, in her capacity as President of the Coordinating Committee of Women Parliamentarians.

3. Bureaux of the Standing Committees

Standing Committee on Peace and International Security

President

Mr. Eduardo Menem (Argentina)
(*Latin American Group*)

First Vice-President

Ms. Houda Al-Homsi (Syrian Arab Republic)
(*Arab Group*)

Vice-Presidents

African Group

Mr. Albert Ndjavé-Djoye (Gabon) – titular member
Mr. Thiémelé Boa (Côte d'Ivoire) – substitute member

Arab Group

Ms. Zahra Bitat (Algeria) – substitute member

Asia-Pacific Group

Ms. Khunying Jintana Sookmark (Thailand) – titular member
Mr. Simon Patrice Morin (Indonesia) – substitute member

Twelve Plus Group

Mr. John Wilkinson (United Kingdom) – titular member
Mr. Csaba Tiberiu Kovacs (Romania) – substitute member

Eurasia Group

Mr. Vladimir Bavlov (Russian Federation) – titular member

Mr. Bato-Zhargal Zhambalimbuev (Russian Federation) – substitute member

Latin American Group

Mr. Luis Fernando Duque García (Colombia) – substitute member

Standing Committee on Sustainable Development, Finance and Trade

President

Mr. Einar K. Gudfinnsson (Iceland)
(*Twelve Plus Group*)

First Vice-President

Ms. Natalia Narochnitskaya (Russian Federation)
(*Eurasia Group*)

Vice-Presidents

African Group

Ms. Nora Schimming-Chase (Namibia) – titular member

Mr. Tierno Aliou Baniré Diallo (Guinea) – substitute member

Arab Group

Mr. Fawwaz Abulghnam (Jordan) – titular member
Mr. Abdulmuhsin Al Akkas (Saudi Arabia) – substitute member

Asia-Pacific Group

Mr. Eduardo K. Veloso (Philippines) – titular member
Mr. Grant Chapman (Australia) – substitute member

Twelve Plus Group

Ms. Ingrida Udre (Latvia) – substitute member

Eurasia Group

Mr. Vadim Popov (Belarus) – substitute member

Latin American Group

Mr. Luis Alberto Heber (Uruguay) – titular member
Mr. Ramón Darío Vivas (Venezuela) – substitute member

Standing Committee on Democracy and Human Rights

President

Ms. Rebecca A. Kadaga (Uganda)
(*African Group*)

First Vice-President

Mr. Jay-Kun Yoo (Republic of Korea)
(*Asia-Pacific Group*)

Vice-Presidents

African Group

Mr. Alban Baghin (Ghana) – substitute member

Arab Group

Mr. Abdelahad Gamal El Din (Egypt) – titular member

Mr. Ahmed El-Kadiri (Morocco) – substitute member

Asia-Pacific Group

Mr. Prem Chand Gupta (India) – substitute member

Twelve Plus Group

Ms. Brigitta Gadient (Switzerland) – titular member

Mr. Henrik S. Järrel (Sweden) – substitute member

Eurasia Group

Mr. Sergey Zhalibin (Kazakhstan) – titular member

Mr. Tolib Nabiev (Tajikistan) – substitute member

Latin American Group

Mr. José Machuca (El Salvador) – titular member

Ms. Addy Joaquín Coldwell (Mexico) – substitute member

4. Rapporteurs of the Standing Committees to the 111th Assembly

Standing Committee on Peace and International Security

Mr. J. Wilkinson (United Kingdom)

Ms. S. Damen-Masri (Jordan)

Standing Committee on Sustainable Development, Finance and Trade

Ms. S. Mugerwa (Uganda)

Mr. P. Günter (Switzerland)

Standing Committee on Democracy and Human Rights

Ms. M. Mensah-Williams (Namibia)

Mr. J.P. Winkler (Germany)

5. Committee on the Human Rights of Parliamentarians

Mr. S. Sirait (Indonesia), substitute member, was elected titular member for a five-year term until April 2009.

Ms. S. Carstairs (Canada) was elected substitute member for a five-year term until April 2009.

Ms. Z. Benarous (Algeria) was elected substitute member for a five-year term until April 2009.

6. Committee on Middle East Questions

Mr. M. Traoré (Mali) was elected substitute member for a four-year term until April 2008.

7. Group of Facilitators for Cyprus

Mr. F. Gutzwiler (Switzerland) was elected for a four-year term until April 2008.

8. Coordinating Committee of the Meeting of Women Parliamentarians

Bureau

President and ex officio member of the IPU Executive Committee

Ms. J. Fraser (Canada) April 2006

First Vice-President

Ms. S. Damen-Masri (Jordan) April 2006

Second Vice-President

Ms. L. Madero García (Mexico) April 2006

Members of the Executive Committee

(ex officio, for the duration of their term on the Executive Committee)

Ms. K. Komi (Finland) April 2008

Ms. N.S. Mensah-Williams

(Namibia) September 2007

Ms. Z. Ríos-Montt (Guatemala) October 2004

President of the Meeting of Women

Parliamentarians (ex officio for two years)

Ms. D.M. Sauri Riancho (Mexico) April 2006

Regional representatives (elected for two years)

Group of African countries

Titular representatives

Ms. B. Henrique da Silva (Angola) April 2006

Ms. E. Beyene (Ethiopia) April 2006

Substitute representatives

Ms. O.A. Tamboura (Mali) April 2006

Ms. S. Moulenqui-Mouele (Gabon) April 2006

Group of Arab countries

Titular representatives

Ms. S. Damen-Masri (Jordan) April 2006

Ms. K. Kaâbi (Tunisia) April 2006

Substitute representatives

Ms. K. Al-Nattah
(Libyan Arab Jamahiriya) April 2006

Ms. M. Osman Gaknoun (Sudan) April 2006

Group of Asia and Pacific countries

Titular representatives

Ms. M. Singh (India) April 2006

Ms. A. Aminy (Indonesia) April 2006

Substitute representatives

Ms. D. Altai (Mongolia) April 2006

Ms. J. Ferris (Australia) April 2006

Eurasia group

Titular representatives

Ms. H. Hakobian (Armenia) April 2006

Ms. Y. Grigorovich (Belarus) April 2006

<u>Substitute representatives</u>	
Ms. S. Kaldygolova (Kazakhstan)	April 2006
Ms. N. Narochnitskaya (Russian Federation)	April 2006
Group of Latin American countries	
<u>Titular representatives</u>	
Ms. L. Madero García (Mexico)	April 2006
Ms. I. Allende (Chile)	April 2006
<u>Substitute representatives</u>	
Ms. V. Mata (Venezuela)	April 2006
Ms. M. Müller (Argentina)	April 2006
Twelve Plus group	
<u>Titular representatives</u>	
Ms. P. Ernstberger (Germany)	April 2006

Ms. J. Fraser (Canada)	April 2006
<u>Substitute representatives</u>	
Ms. G. Gautier (France)	April 2006
Ms. D. Stump (Switzerland)	April 2006

9. Gender Partnership Group

The Executive Committee appointed Ms. M. Mensah-Williams (Namibia), Ms. Z. Rios-Montt (Guatemala) and Mr. P. Rattanapian (Thailand) as members of the Gender Partnership Group.

Membership of the Union*

Members (140)

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, Guinea, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Malaysia, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Papua New Guinea, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia and Montenegro, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, The former Yugoslav Republic of Macedonia, Togo, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe

Associate Members (5)

Andean Parliament, Central American Parliament, European Parliament, Latin American Parliament, Parliamentary Assembly of the Council of Europe

* At the closure of the Assembly

Resolutions, Decisions and Votes of the 110th Assembly of the Inter-Parliamentary Union

PROMOTING INTERNATIONAL RECONCILIATION, HELPING TO BRING STABILITY TO REGIONS OF CONFLICT, AND ASSISTING WITH POST-CONFLICT RECONSTRUCTION

Resolution adopted by consensus by the 110th IPU Assembly
(Mexico City, 23 April 2004)*

The 110th Inter-Parliamentary Assembly,

Recalling that, pursuant to the provisions of Article 2 of the Charter of the United Nations, Member States shall refrain in their international relations from the threat or use of force,

Recalling that, except in the case of self-defence expressly provided for in Article 51 of the Charter, the Security Council alone is empowered to decide on measures involving the use of armed force as defined in Chapter VII of the Charter,

Drawing on the provisions of Chapter VI of the United Nations Charter on the settlement of disputes and in particular, considering that the parties to a dispute shall first seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, recourse to regional agencies or arrangements or other peaceful means of their own choice,

Highlighting the common objectives of the United Nations (as enshrined in Article 1 of the Charter) and the IPU (as per Article 1 of its Statutes), in particular the objectives of maintaining international peace and security and developing friendly relations among peoples and nations based on respect for the principle of equal rights and mutual respect,

Recognising that the root causes of armed conflict are multidimensional in nature, thus requiring a comprehensive and integrated approach to the prevention of armed conflict, and *aware* that conflicts that turn into armed violence are one of the most serious obstacles to development,

Considering the manifest link between peace, development and democracy, and the role of Parliament in strengthening this link,

Convinced that the development of democracy and the enjoyment of human rights are the surest means of preventing conflicts and restoring trust and peace in the post-war or post-conflict period,

Observing that the reconciliation of peoples and nations is the crowning achievement of peace and the means of moving beyond conflicts,

Affirming that reconciliation should go hand in hand with forgiveness without forgetting, and that reconciliation is characteristic of any society restored to peace and which has embarked on a future of joint reconstruction underpinned by the values of mutual respect, equality and tolerance,

Recalling that Parliament is the institution *par excellence* that embodies the diverse attributes and opinions of society and reflects and channels this diversity in the political process, and that its mission is to

* The delegation of the United Kingdom expressed a reservation regarding the wording of the second preambular paragraph, and the delegation of India expressed a reservation regarding operative paragraphs 15 and 26.

defuse tensions and maintain a balance between rival aspirations of diversity and uniformity, and the individual and the collective, with the aim of strengthening social cohesion and solidarity,

Recalling the provisions of the Universal Declaration on Democracy (Cairo, September 1997) and the information document on the IPU's stance (CONF/108/4-Inf. Doc.1),

Recognising the role that the Inter-Parliamentary Union and its Member Parliaments can and must play in restoring lasting peace by promoting international reconciliation,

Recalling that Parliament is the ideal forum for giving expression to democracy,

Noting that armed conflict is often the result of a crisis and/or of a poorly managed reconciliation,

1. *Reiterates* the call on governments made at the 109th Inter-Parliamentary Assembly to "promote reconciliation processes aimed at achieving sustainable solutions to internal conflicts";
2. *Reiterates* the call on parliaments made at the 109th Inter-Parliamentary Assembly to do everything possible "at the national level to facilitate the establishment of standing mechanisms for conflict prevention and resolution, as a way to promote action geared to achieving real peace";
3. *Requests* that parliaments engage in a policy of good offices, cooperation and assistance with parliaments of countries in conflict or undergoing reconciliation, when requested;
4. *Requests* that parliaments of countries engaged in a process of reconciliation meet and develop joint projects;
5. *Encourages* parliaments to support international reconciliation efforts conducted under the aegis of the United Nations and regional or sub-regional organisations;
6. *Calls on* Parliaments to support the inter-governmental structures, mechanisms and processes that promote stabilisation, reconciliation and peaceful development at regional and sub-regional level, and to enhance their parliamentary dimension;
7. *Requests* that parliaments promote dialogue, exchange and mutual understanding among cultures and civilisations;
8. *Requests* that the IPU establish committees to foster dialogue among MPs in cases where peace and reconciliation processes fail to work;
9. *Urges* parliaments to oversee the foreign policy of their government in order to bring reconciliation processes to a successful conclusion;
10. *Requests* parliaments, together with the IPU, as appropriate, to develop democratic engineering activities and intensify technical assistance to countries endeavouring to establish a new system of parliamentary democracy, and to make use of its valuable expertise to promote a balanced gender perspective in this process;
11. *Proposes* that the IPU's Committee on the Human Rights of Parliamentarians develop its role and activities in truth and reconciliation commissions (TRCs) and make its expertise in the field of human rights available to TRCs;
12. *Recommends* regular participation in United Nations peace-keeping operations, and particularly in initiatives aimed at reconciliation;

13. *Urges parliaments to establish, when needed, legally constituted TRCs; ensure fair representation of national diversity within TRCs, including that of women; ensure that TRCs have the resources they need to carry out their mandate; ensure that the work and outcomes of the TRCs are made public; monitor consideration of TRC recommendations by the Executive; and ensure follow-up of TRC recommendations;*
14. *Recommends that the statute of limitations shall not apply to serious crimes in violation of human rights;*
15. *Recommends also the ratification of international human rights instruments, in particular the Rome Statute of the International Criminal Court and the special tribunals established by the United Nations;*
16. *Proposes that human rights bodies be established in each parliament;*
17. *Encourages the IPU to promote cooperation among parliamentary human rights bodies and to develop relations with the United Nations High Commissioner for Human Rights and regional human rights mechanisms;*
18. *Recommends repealing existing laws or amending bills that grant an amnesty by applying the statute of limitations to actions considered crimes under international law;*
19. *Encourages the IPU to enhance its role and activities in the areas of peace and security, in particular by developing its United Nations dimension by making its expertise in democracy available to stabilisation and peacekeeping operations;*
20. *Recommends that parliaments bring pressure to bear on governments to participate in and finance peacekeeping operations under the aegis of the United Nations;*
21. *Encourages the development of parliamentary diplomacy, technical assistance under bilateral cooperation, and participation in consortia and multilateral cooperation projects;*
22. *Encourages the development of multilateral cooperation within and under the aegis of the IPU;*
23. *Proposes that special attention be given to the bicameral parliamentary system in order to represent the various national groups;*
24. *Encourages the United Nations to pursue and intensify its efforts to prevent conflicts and maintain and consolidate peace worldwide, particularly in Africa, where slow and fragile development is a fertile breeding ground for instability, and in the Middle East, which, for over half a century, has been plagued by one of the most appalling and bloody conflicts of recent times;*
25. *Encourages all countries to implement United Nations Security Council Resolution 1325 (2000) on "women and peace and security", as well as the specific recommendations on women and war made in the Beijing Platform for Action and the outcome document of the Beijing+5 Special Session of the United Nations General Assembly;*
26. *Encourages all international, regional, and sub-regional organisations, as well as non-governmental organisations involved in promoting international reconciliation, to stabilise conflict-prone regions and consolidate peace through post-conflict reconstruction and to continue their efforts despite the failures and serious obstacles they encounter;*

27. *Calls on* the countries engaged in assistance activities for reconstruction in post-conflict countries or regions to achieve a smooth and gradual transition from humanitarian assistance to reconstruction and development, in order to prevent the re-occurrence of conflicts and fresh waves of refugees or internally displaced persons;
28. *Urges* the Inter-Parliamentary Union to become more involved in seeking solutions to conflicts and promoting international reconciliation by:
 - (a) participating actively in concerted global efforts to resolve conflicts through dialogue among MPs and cooperation with competent international organisations and agencies, thereby contributing to peace and security;
 - (b) encouraging, in conflict-prone countries or regions, all efforts likely to promote national reconciliation such as, *inter alia*, good governance, respect for human rights and basic freedoms, and disarmament;
29. *Urges* the Inter-Parliamentary Union to become more involved in promoting post-reconstruction by:
 - (a) recommending international organisations and countries capable of so doing to establish, in post-conflict countries or regions, substantial economic assistance programmes that are needed for reconstruction and lasting stability, following the example of the Marshall Plan;
 - (b) encouraging governments to support fully programmes needed for post-conflict reconstruction, by mobilising their resources;
30. *Requests* parliaments to foster or support, as the case may be, national measures designed to promote international reconciliation, such as promoting the concept and culture of peace, volunteerism, combating all forms of violence, outlawing terrorism, promoting development and education for all, including human rights education;
31. *Requests also* that parliaments foster or support, as the case may be, measures to strengthen peace and security, such as reconstruction, reducing the trade in weapons, particularly small arms, and in narcotics, promoting social justice, and combating poverty, corruption and environmental degradation;
32. *Encourages* parliaments, in their reconstruction efforts, to bring pressure to bear on their governments to respect the commitments undertaken in Monterrey and to alleviate or cancel, as far as possible, the debt burden, which is one of the main causes of poverty and conflict;
33. *Calls on* the Inter-Parliamentary Union to play a more meaningful part in debates, forms of concerted action and negotiations involving peace and security through its Permanent Observer.

WORKING TOWARDS AN EQUITABLE ENVIRONMENT FOR INTERNATIONAL COMMERCE: THE ISSUES OF TRADE IN AGRICULTURAL PRODUCTS AND THE ACCESS TO BASIC MEDICINES

Resolution adopted by consensus by the 110th IPU Assembly
(Mexico City, 23 April 2004)*

The 110th Assembly of the Inter-Parliamentary Union,

Recalling:

- The objectives of the IPU, as stated in its Statutes,
- The Final Declaration of the Parliamentary Meeting on International Trade "For a free, just and equitable multilateral trade system: providing a parliamentary dimension" (Geneva, June 2001),
- The Doha Ministerial Declaration adopted by the Fourth WTO Ministerial Conference (Doha, November 2001),
- The Declaration of the Cancún session of the Parliamentary Conference on the WTO held on the occasion of the Fifth WTO Ministerial Conference (Cancún, September 2003),
- The objectives of the Partnership Agreement signed in Cotonou on 23 June 2000 between the members of the African, Caribbean and Pacific Group of States (ACP) and the European Union (EU) regarding poverty eradication, sustainable development and the gradual integration of the ACP countries into the world economy,
- IPU resolutions on international trade, development and poverty reduction,

Noting that the Doha Ministerial Declaration recognises that the majority of WTO members are developing countries and that world trade should be largely commensurate with the needs of their economic development,

Also noting that the voice of developing countries became stronger at the WTO Ministerial Conference in Cancún with the involvement of negotiating groups such as the G20+, the G90 (African Union, ACP and LDCs) and the G33,

Aware of the differing positions of these groups, some of which advocate total trade liberalisation, while others wish to keep tariff preferences under special and differential treatment, *also aware* of the collective criticism levelled by these groups against shortcomings in the WTO negotiation procedures,

Recognising the need for better-designed negotiating structures with clear rules, agreed by all WTO members, to allow for the establishment of an equitable and transparent environment for international trade,

* The delegation of China expressed a reservation on operative paragraph 5 in view of the fact that, following its accession to the WTO, China had already removed its cotton subsidies. The delegation of Latvia had a reservation on operative paragraph 7 because it considered necessary to maintain agricultural subsidies in Latvia as a transitional measure for some years to come. The delegations of Morocco and Burkina Faso expressed reservations on operative paragraph 7 on the grounds that they were in favour of total elimination of all subsidies as opposed to radical reduction of agricultural subsidies only. The delegation of Mexico also expressed its reservation on operative paragraph 7 because it believed that subsidies should be removed gradually and that countries should be free to decide how to proceed in this regard.

Noting that an agreement was concluded at the Doha Ministerial Conference concerning a special interpretation of the trade-related aspects of intellectual property rights (TRIPS), to meet public health needs,

Concerned that one third of the world's population does not have access to essential medicines, and *particularly concerned* at the spread of HIV/AIDS, affecting 42 million people throughout the world, a significant proportion of whom are in Africa, 90% of whom do not have access to medicines,

Welcoming the WTO agreement of 30 August 2003 on legal changes that will make it easier for poorer countries to import less expensive generic medicines made under compulsory licensing if they are unable to manufacture the medicines themselves,

Aware of the support through the Global Fund to Fight AIDS, Tuberculosis and Malaria for essential not-patented medicines requiring the provision of a full health service delivery system in each country,

Noting the reforms of the EU Common Agricultural Policy entailing major decoupling of production subsidies, while *remaining aware* that trade-distorting domestic support and export subsidies clearly harm developing countries,

Welcoming French President Chirac's proposals at the G8 Summit in Evian in 2003 to eliminate export subsidies on all products of interest to developing countries,

Noting that the "peace clause" of the WTO Agriculture Agreement has now expired, and that countries now have greater freedom to take action against each other's agricultural subsidies wherever they exist,

Recognising that measures to be taken must be firmly based upon the concept of sustainable development, as agreed upon at the Johannesburg Summit of 2002, including the integration of all three components - environment, economy and social questions - as well as the fight against poverty,

Further noting that:

- The Doha Ministerial Declaration entails a number of commitments to tackle specific problems that have long been identified as major obstacles preventing developing countries from securing a more equitable share of world trade;
- While agriculture provides a means of subsistence for two-thirds of the world's population, particularly in the developing countries, in Sub-Saharan Africa, where cotton producers make up approximately 40% of the overall population, cotton represents nearly 30% of national exports and 5-10% of GDP, and that this commodity is therefore of strategic importance in the fight against poverty,
- The subsidies of the wealthy countries guarantee a minimum price to their producers, which results in the market being flooded with non-competitive agricultural goods, while the exorbitant cotton subsidies granted by the USA and the EU violate the rules of international trade and distort the universal principles of competition. Such subsidies - more than 6 times the amount of official development aid to developing countries - have led the international trading system into an impasse, as they contradict the basic principles of international free trade, resulting in price distortion, and link international trade in agricultural products to prices which are not determined by competition but by exorbitant farm subsidies, quota systems, restrictions on quantities, and agricultural export subsidies, all of which damage the agricultural sector, which is vital to the economic and social development of the developing countries,

- It is important for developing countries to have the right to open their markets on a step-by-step basis to ensure secure food supplies through sustainable, domestic agricultural production,
1. *Calls for* continued provision of financial and technical assistance to negotiating teams of developing countries, so as to enable them to become more effective in international negotiations;
 2. *Recommends* that negotiations for opening markets be simultaneously pursued along North-North, South-South and South-North lines;
 3. *Recognises* the strategic importance of the cotton industry in development and poverty reduction in many countries, particularly the least developed ones, while stressing that changes negotiated in the area of agriculture should be non-sectoral;
 4. *Supports* the sectoral initiatives on cotton, referred to in the document presented to the Fifth WTO Ministerial Conference by its Chairman, Mr. L. Derbez;
 5. *Urges* the European Union, the United States of America and China to remove their cotton subsidies and *calls on* the Common Fund for Commodities (CFC) to put forward proposals in support of the Cotton Initiative of the governments and parliaments of Mali, Benin, Burkina Faso and Chad, which are aimed at the progressive elimination of all cotton subsidies and the establishment of a compensation mechanism to support the cotton sector in the least developed countries;
 6. *Requests* that the search for a solution to the problems of the African cotton sector be considered a priority within the framework of the Doha Development Round;
 7. *Calls for* radical reduction of all agricultural subsidies that contribute to under-development as well as the reduction of tariffs and non-tariff barriers imposed on imports from developing countries;
 8. *Emphasises* that the decision of the WTO General Council of 30 August 2003 on the implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health calls for its prompt implementation through the enactment of national legislation by each parliament;
 9. *Encourages* parliaments to scrutinise the actions of both governments and pharmaceutical companies to ensure implementation of the above-mentioned WTO decision, particularly after 31 December 2004, by which date all countries (except LDCs) are required to have introduced product patents on pharmaceuticals;
 10. *Urges* WTO and its members to provide technical aid to countries in need and to ensure appropriate application of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health;
 11. *Calls for* a special fund to be put in place to finance the purchase of equipment for diagnosing and monitoring diseases and to purchase antiretroviral HIV/AIDS medicines and *also calls for* WTO provisions to be reinforced in order to facilitate exchange, thereby fostering competition in generic products and driving down the price of anti-AIDS drugs;
 12. *Calls upon* all parliaments to pass legislation giving effect to the 30 August 2003 decision of the WTO that introduces compulsory licensing for the export of patented medicines for life-threatening diseases to developing countries with no or little manufacturing capacity in the

pharmaceutical sector and to the least developed countries, so that they can import such drugs without restrictions;

13. *Further calls* upon parliaments to foster government action to ensure that antiretroviral drugs and those preventing mother-to-child HIV transmission are made freely accessible to HIV/AIDS patients, rather than simply to lower the price of such drugs;
14. *Urges* the parties concerned to support medical research into medicines suitable for developing countries given that the health problems related to HIV/AIDS cannot be solved through inexpensive medicines alone;
15. *Invites* governments to establish national HIV programmes to strengthen the national health system, to take measures against other serious diseases by providing affordably priced essential equipment to facilitate the diagnosis of common diseases, to promote the supply of food of proper nutritional value, and to develop health infrastructure;
16. *Expects* that agreements concluded at the various WTO negotiations will contribute significantly to redress imbalances and inequalities within world trade, and that priority will be given to the concerns related to the development of poor countries;
17. *Invites* WTO Members to recognise that agriculture has a multifunctional role which includes food safety, land conservation, animal welfare, the preservation of a way of life, revitalisation of rural society and rural employment, and *further invites* them to take non-trade concerns into account in WTO negotiations, enabling the co-existence of diverse agricultural systems of various countries, in particular in the developing world;
18. *Calls on* the IPU Member parliaments to monitor the pursuit by governments of the above-mentioned objectives;
19. *Reiterates* the call made in the Parliamentary Declaration from the Cancún meeting, as follows: "Transparency of the WTO should be enhanced by associating parliaments more closely with the activities of the WTO. Moreover, we call on all WTO Members to include members of parliament in their official delegations to future Ministerial Conferences".

FURTHERING PARLIAMENTARY DEMOCRACY IN ORDER TO PROTECT HUMAN RIGHTS AND ENCOURAGE RECONCILIATION AMONG PEOPLES AND PARTNERSHIP AMONG NATIONS

Resolution adopted by consensus by the IPU 110th IPU Assembly
(Mexico City, 23 April 2004)*

The 110th Assembly of the Inter-Parliamentary Union,

Aware that a well-functioning democracy is crucial to ensure the promotion and protection of human rights and effective reconciliation,

Mindful that the full enjoyment of human rights empowers human beings to shape their lives based on liberty, equality and respect for human dignity, and must be safeguarded by every State and the international community,

Affirming the role of parliaments and inter-parliamentary bodies in providing a forum for dialogue and peaceful resolution of conflicts,

Recognising that reconciliation goes beyond the formal legal settlement of disputes, and is both a process and a goal,

Recognising further that true reconciliation is closely linked to an acknowledgement and punishment of the crimes of the past through prosecution, mediation, truth-telling and compensation,

Recognising also that there is no single model for reconciliation, as evidenced by the variety of reconciliation efforts in countries emerging from conflict, including the various Truth and Reconciliation Commissions which have been established,

Affirming the important role of national parliaments, regional assemblies, the Inter-Parliamentary Union and the United Nations in preventing conflict, restoring peace and advancing reconciliation,

Stressing the important role of women in the prevention and resolution of conflicts and in peace-building,

Recalling in this regard the contribution made by the IPU in offering all parties involved in or affected by a conflict a direct opportunity for dialogue, assistance in strengthening transitional assemblies and parliaments in post-conflict situations and in addressing human rights concerns affecting parliamentarians in such situations, through its Committee on the Human Rights of Parliamentarians,

Reaffirming relevant IPU resolutions, particularly,

- “Strengthening national structures, institutions and organisations of society which play a role in promoting and safeguarding human rights” (Copenhagen, September 1994);

* Following adoption of the resolution, the delegation of India expressed reservations regarding operative paragraph C.9 concerning the International Criminal Court. Although it supported the resolution, it could not support this paragraph, as the Court's jurisdiction did not extend to terrorism.

- "The prevention of conflicts and the restoration of peace and trust in countries emerging from war: the return of refugees to their countries of origin, the strengthening of democratic processes and the hastening of reconstruction" (Windhoek, April 1998);
- "The contribution of parliaments to the peaceful coexistence of ethnic, cultural and religious minorities, including migrant populations, within one State, marked by tolerance and the full respect for their human rights" (Berlin, October 1999); and
- "The role of parliaments in assisting multilateral organisations in ensuring peace and security and in building an international coalition for peace" (Geneva, October 2003),

A. Laying the groundwork for effective reconciliation processes

1. *Reaffirms* its call on States to institute, promote and implement national reconciliation processes aimed at achieving sustainable solutions to internal conflicts and internal crises provoked by international conflicts, *underlines* the importance of building a reconciliation process into post-conflict reconstruction at an early stage, and *points out* that reconciliation may also serve to strengthen and deepen democracy in societies with a legacy of widespread human rights abuses;
2. *Stresses* the need for the adoption of confidence-building measures so as to create a climate of trust in which conflicting parties can pursue their reconciliation efforts;
3. *Strongly believes* that reconciliation processes can only be sustained if they are truly inclusive, and *calls on* States to ensure the participation therein of both men and women on an equal footing, and of all components of society;
4. *Affirms* that parliaments play an essential role in securing a national consensus regarding the need and form of reconciliation, monitoring the agreements made to this effect, and adopting such laws and providing the resources needed to ensure their implementation;
5. *Encourages* parliaments to consider the full range of possible instruments of reconciliation, in particular truth-telling, reparations, healing and education, as well as different forms of justice, including community-based restorative measures;

B. Implementing reconciliation processes

1. *Urges* States to ensure the early and voluntary return, resettlement and rehabilitation of refugees and internally displaced persons; the disarming, demobilisation and subsequent reorientation and reintegration of former combatants, especially child soldiers, into civilian life; and the rehabilitation of traumatised populations, in particular women and children;
2. *Calls on* States to establish appropriate forms of justice to address violations of human rights and international humanitarian law which occur in the course of conflict, including, where possible and useful, by the establishment of Truth and Reconciliation Commissions on the basis of: (i) a fair representation of national diversity and a gender balance in their membership; (ii) the provision of adequate resources; and (iii) a clearly defined mandate and the mechanisms needed for implementation;
3. *Calls on* parliaments to play an active part in debating and encouraging progress in reconciliation processes, including through hearings and the consideration of progress reports, and, where Truth and Reconciliation Commissions have been established, by ensuring that their work and recommendations are made public and implemented;
4. *Invites* the IPU to gather, analyse and make available lessons drawn from comparative experiences of parliaments and their members working in post-conflict settings;

- C. Promoting democracy, human rights and a culture of peace and tolerance to consolidate reconciliation and prevent conflicts
1. *Encourages* States to eliminate the structural causes of violent conflict, and to adopt effective policies and legislation to prevent conflict in future;
 2. *Underlines* that the holding of truly free and fair elections based on secret balloting and universal suffrage, monitored by independent election authorities, is always of paramount importance in the establishment of parliaments reflecting national diversity and, particularly in countries emerging from violent conflict, is essential in consolidating and advancing the reconciliation process;
 3. *Calls on* parliaments to respect the political rights of opposition parties and freedom of the press;
 4. *Also calls on* parliaments to articulate the diverse needs and aspirations of society, while giving priority to addressing and emphasising needs such as those related to health and education, which are shared by a divided public;
 5. *Stresses* the particular responsibility of individual parliamentarians and their political parties in promoting tolerance of diversity;
 6. *Reaffirms* that parliamentary democracy can only be truly meaningful if women are represented in parliament on the basis of full equality with men, both in law and in practice, and *strongly urges* parliaments to ensure that such equality is achieved, *inter alia*, by the adoption of temporary special measures;
 7. *Stresses* the importance of the universal ratification of international human rights and international humanitarian law instruments, and *calls on* the parliaments in States which are not yet party to those instruments to examine the reasons thereof and to consider ratification as soon as possible;
 8. *Calls on* parliaments to ensure that there are no statutes of limitations or other legal impediments to the prosecution of serious violations of human rights and international humanitarian law;
 9. *Invites* all States to consider, if they have not already done so, acceding to and/or ratifying the Rome Statute establishing the International Criminal Court, and *recalls* that, in establishing which crimes fall within the jurisdiction of the Court, the latter's Statute defines rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation and any other form of sexual violence as war crimes and, when committed as part of a widespread or systematic attack directed against any civilian population, as crimes against humanity;
 10. *Encourages* all countries to implement United Nations Security Council Resolution 1325 (2000) on Women and peace and security, given the important role of women in the prevention, management and resolution of conflicts and in peace-building activities;
 11. *Stresses* that human rights can be enhanced through the work of parliamentary human rights committees, as well as through the establishment of national institutions such as ombudsmen for the promotion and protection of human rights, nationally and internationally, and *urges* parliaments to establish such committees and national institutions where they do not yet exist;
 12. *Calls on* parliaments to become more active in the field of improving respect for human rights and international humanitarian law, and in monitoring the implementation of decisions related thereto by the relevant bodies;
 13. *Urges* parliaments to ensure that tolerance, human rights, the culture of peace and the norms and principles of international humanitarian law are included and promoted in formal and

informal education syllabuses, in consideration of the importance of school literature in inculcating democratic values and in helping to prevent young people from becoming involved in a culture of violence;

14. *Calls on* the IPU to strengthen its assistance, where appropriate, to nascent parliamentary institutions, such as transitional and/or constituent assemblies and their successor parliaments, with a view to strengthening their substantive and technical capacities for the effective performance of their roles and responsibilities;
15. *Encourages* the involvement of the IPU in parliamentary election monitoring and observation, so as thereby to contribute to the legitimacy of the parliaments thus elected.

Results of roll-call vote on the request of the delegations of Indonesia and Lebanon (on behalf of the Arab Groups) for the inclusion of an emergency item entitled

"THE ROLE OF PARLIAMENTS IN STOPPING ACTS OF VIOLENCE, AND THE BUILDING OF THE SEPARATION WALL, IN ORDER TO CREATE CONDITIONS CONDUCIVE TO PEACE AND A LASTING SOLUTION TO THE PALESTINIAN-ISRAELI CONFLICT"

Results

Affirmative votes	810	Total of affirmative and negative votes ..	1062
Negative votes.....	252	Two-thirds majority	708
Abstentions.....	223		

Country	Yes	No	Abst.	Country	Yes	No	Abst.	Country	Yes	No	Abst.
Albania	6	5		Greece	5	8		Poland			15
Algeria	14			Guatemala		10		Portugal	2	10	
Andorra		5	5	Guinea	12			Republic of Korea	10		
Angola	12			Hungary			13	Romania			14
Argentina		15		Iceland		10		Russian Federation	20		
Armenia	10			India	23			Rwanda			<i>absent</i>
Australia	3	10		Indonesia	22			Samoa			<i>absent</i>
Austria			12	Iran (Islamic Republic of)	18			San Marino		10	
Bahrain	10			Ireland	6	5		Sao Tome and Principe	10		
Bangladesh	20			Israel		12		Saudi Arabia	13		
Belarus	13			Italy		17		Senegal	10		
Belgium		12		Japan	20			Serbia and Montenegro			<i>absent</i>
Benin	11			Jordan	11			Singapore			<i>absent</i>
Bosnia and Herzegovina	11			Kazakhstan	13			Slovakia			12
Botswana	11			Kenya			<i>absent</i>	Slovenia			<i>absent</i>
Brazil		<i>absent</i>		Kuwait	11			Spain			15
Bulgaria			12	Latvia			11	Sri Lanka			<i>absent</i>
Burkina Faso	13			Lebanon	11			Sudan	15		
Burundi		<i>absent</i>		Liberia			<i>absent</i>	Suriname			10
Cameroon	13			Libyan Arab Jamahiriya	10			Sweden		12	
Canada	3	12		Liechtenstein			10	Switzerland	8		4
Cape-Verde		<i>absent</i>		Lithuania			<i>absent</i>	Syrian Arab Rep.	13		
Chile			13	Malaysia	14			Thailand	18		
China	23			Mali	12			The fYR of Macedonia			<i>absent</i>
Colombia			10	Malta			<i>absent</i>	Togo	12		
Costa Rica			10	Mauritius			<i>absent</i>	Tunisia	10		
Côte d'Ivoire	8		5	Mexico		20		Turkey	18		
Croatia			11	Monaco			<i>absent</i>	Uganda	13		
Cuba	13			Mongolia			<i>absent</i>	Ukraine	10		
Czech Republic		<i>absent</i>		Morocco	14			United Arab Emirates	11		
DR of the Congo	17			Mozambique	13			United Kingdom	9	4	4
Denmark	2	10		Namibia	10	1		Uruguay			11
Ecuador		<i>absent</i>		Netherlands		13		Venezuela	13		
Egypt	18			New Zealand		10		Viet Nam	18		
El Salvador	12			Nicaragua		10		Yemen	13		
Estonia		<i>absent</i>		Nigeria			<i>absent</i>	Zambia	12		
Ethiopia	18			Norway			11	Zimbabwe	13		
Finland		12		Pakistan	20						
France	12	5		Panama			<i>absent</i>				
Gabon	11			Peru			<i>absent</i>				
Germany		14	5	Philippines			10				
Ghana	10										

N.B. This list does not include delegations present at the session which were not entitled to vote pursuant to the provisions of Article 5.2 of the Statutes.

**Results of roll-call vote on the request of the delegations of the Twelve-Plus Group and
the Latin American Group for the inclusion of an emergency item entitled**

**"THE ROLE OF PARLIAMENTS IN THE FIGHT AGAINST TERRORISM.
PROMOTING A PEACEFUL DIALOGUE AMONG CULTURES AND CIVILIZATIONS"**

R e s u l t s

Affirmative votes	732	Total of affirmative and negative votes ...	1096
Negative votes.....	364	Two-thirds majority	731
Abstentions.....	186		

Country	Yes	No	Abst.	Country	Yes	No	Abst.	Country	Yes	No	Abst.
Albania	11			Guinea		12		Russian Federation	20		
Algeria		14		Hungary	13			Rwanda		<i>absent</i>	
Andorra	10			Iceland	10			Samoa		<i>absent</i>	
Angola		12		India	23			San Marino	10		
Argentina	15			Indonesia		22		Sao Tome and Principe	5		5
Armenia	10			Iran (Islamic Republic of)	10		8	Saudi Arabia		13	
Australia	13			Ireland	11			Senegal			10
Austria	12			Israel	12			Serbia and Montenegro		<i>absent</i>	
Bahrain		10		Italy	17			Singapore		<i>absent</i>	
Bangladesh		20		Japan	20			Slovakia	12		
Belarus	13			Jordan		11		Slovenia		<i>absent</i>	
Belgium	12			Kazakhstan	13			Spain	15		
Benin		11		Kenya		<i>absent</i>		Sri Lanka		<i>absent</i>	
Bosnia and Herzegovina	11			Kuwait		11		Sudan		15	
Botswana		11		Latvia	11			Suriname	10		
Brazil		<i>absent</i>		Lebanon		11		Sweden	12		
Bulgaria	12			Liberia		<i>absent</i>		Switzerland	12		
Burkina Faso			13	Libyan Arab Jamahiriya		10		Syrian Arab Rep.		13	
Burundi		<i>absent</i>		Liechtenstein	10			Thailand	9		9
Cameroon			13	Lithuania		<i>absent</i>		The FYR of Macedonia		<i>absent</i>	
Canada	12		3	Malaysia		14		Togo		12	
Cape-Verde		<i>absent</i>		Mali		12		Tunisia			10
Chile	13			Malta		<i>absent</i>		Turkey	18		
China			23	Mauritius		<i>absent</i>		Uganda			13
Colombia	10			Mexico	20			Ukraine	7		
Costa Rica	10			Monaco		<i>absent</i>		United Arab Emirates		11	
Côte d'Ivoire	5		8	Mongolia		<i>absent</i>		United Kingdom	17		
Croatia	11			Morocco		14		Uruguay	11		
Cuba	13			Mozambique			13	Venezuela	13		
Czech Republic		<i>absent</i>		Namibia	1	10		Viet Nam	12		6
DR of the Congo			17	Netherlands	13			Yemen		13	
Denmark	10		2	New Zealand	10			Zambia		12	
Ecuador		<i>absent</i>		Nicaragua	10			Zimbabwe		13	
Egypt		18		Nigeria		<i>absent</i>					
El Salvador	12			Norway	11						
Estonia		<i>absent</i>		Pakistan		20					
Ethiopia		18		Panama		<i>absent</i>					
Finland	12			Peru		<i>absent</i>					
France	17			Philippines	10						
Gabon			11	Poland	15						
Germany	19			Portugal	10		2				
Ghana			10	Republic of Korea			10				
Greece	12	1		Romania	14						
Guatemala	10										

N.B. This list does not include delegations present at the session which were not entitled to vote pursuant to the provisions of Article 5.2 of the Statutes.

THE ROLE OF PARLIAMENTS IN STOPPING ACTS OF VIOLENCE, AND THE BUILDING OF THE SEPARATION WALL, IN ORDER TO CREATE CONDITIONS CONDUCIVE TO PEACE AND A LASTING SOLUTION TO THE PALESTINIAN-ISRAELI CONFLICT

Resolution adopted by consensus by the 110th IPU Assembly
(Mexico City, 23 April 2004)*

The 110th Inter-Parliamentary Assembly,

Recalling the IPU resolutions adopted at the 104th Conference, October 2000 (Jakarta), the 106th Conference, September 2001 (Ouagadougou), the 107th Conference, March 2002 (Marrakech), and the 109th Assembly, October 2003 (Geneva), which called for the cessation of tension and violence in the Middle East,

Taking into account the IPU's support for a just and lasting solution to the Palestinian-Israeli conflict based on the relevant United Nations Security Council resolutions, in particular resolutions 242 (1967), 338 (1973), 1397 (2002), 1515 (2003) and any other relevant United Nations resolutions, the Madrid principles, and the other agreements signed by the two sides,

Recognizing the full acceptance by the Palestinian authority and Israel of the Road Map leading to a Permanent Two State Solution to the Palestinian-Israeli Conflict proposed by the "Quartet" (the United States, the United Nations, the European Union and the Russian Federation),

Deeply concerned at the tragic events that are taking place in the occupied Palestinian territories and have led to numerous deaths and injuries, mostly among innocent Palestinian and Israeli civilians,

Also deeply concerned at the increase in terrorist activities, mainly affecting Palestinian and Israeli civilians and other populations in the world,

Reiterating its concern at Israel's policy to build fences and walls that deprive the Palestinian people of their freedom of movement and adversely affect their ability to live normal lives,

1. *Strongly urges* the cessation of all acts of violence against the Palestinian and Israeli peoples;
2. *Condemns and strongly deplores* targeted assassinations and suicide bombings, both of which perpetuate the cycle of violence and diminish the prospects for reconciliation;

* The delegation of Israel expressed a reservation regarding the wording of operative paragraph 2. The delegation of the Islamic Republic of Iran expressed reservations on those parts of the text which might be construed to imply recognition of Israel, and the delegation of Sudan expressed a general reservation regarding the resolution. The observer delegation of Palestine expressed concern regarding the wording of operative paragraph 3, requesting that the word "walls" be replaced by the words "the separation wall", and that a reference be included regarding attacks against Palestinian civilians.

3. *Recognises* that both parties must take positive action as a means of returning to the negotiating table and *calls on* Israel to stop building walls and fences on Palestinian territory, and on Palestinian groups to renounce the use of violence against Israeli civilians;
4. *Calls on* both parties to fulfil their obligations under the Road Map to achieve the vision of two States living side by side in peace and security;
5. *Also calls on* the IPU and parliaments to strengthen their role in encouraging the implementation of the Road Map, which will lead to a lasting solution to the Israeli-Palestinian conflict, based on relevant United Nations resolutions and in accordance with agreements already concluded between the parties;
6. *Exhorts* both parties to return to the negotiating table in order to put an end to the Israeli-Palestinian conflict, on the basis of relevant United Nations resolutions and agreements concluded between the Palestinian Authority and Israel, and *urges* the United Nations to remain engaged and take all actions necessary to assist the parties to reach a permanent settlement;
7. *Calls on* the international community to give the Palestinians and Israelis the opportunity to achieve the objectives of the Road Map and provide them with assistance.

Reports, Decisions, Resolutions and other texts of the 174th Session of the Governing Council of the Inter-Parliamentary Union

REPORT ON THE STRUCTURE AND FUNCTIONING OF IPU MEMBERS AND THEIR PARTICIPATION IN THE IPU

*Approved by the Governing Council at its 174th session
(Mexico City, 23 April 2004)*

Members of the Union have traditionally submitted annual reports on their activities, in keeping with the Statutory requirement. However, this year's reporting exercise differs from what has been done in previous years, focusing on how Members organise their participation in the work of the IPU.

1. An effort is being made to undertake a real evaluation of the work of the Members of the IPU. This year the Secretariat has focused on how Members are organised within their parliaments by asking them questions about decision-making relating to participation in IPU activities (question A), membership of the parliament in the IPU (question B), administration and funding (question C), delegations to IPU meetings (question D), and preparation and follow-up to IPU meetings (question E).
2. The first conclusion from the new exercise is that Members have sent in far more responses than in the past. A total of 90 Members responded, roughly 25 more than in previous years. Having said that, there are still a large number of Members which did not respond (48). There are, moreover, 12 Members of the IPU which have never submitted an annual report.³ Reporting obligations have been fulfilled over the last ten years to the tune of 63%, but this figure would be considerably lower if the year 2003 were not included in the calculation.

A. Decision-making relating to participation in IPU activities

3. As regards decision-making relating to the participation of Member Parliaments in IPU activities, in most parliaments decisions are taken either by the Bureau of the Parliament or by an IPU Executive Committee specifically set up for the purpose. In some cases the Foreign Affairs Committee participates. Only 14 parliaments responded that such decisions are taken by the parliament as a whole. The main task assigned to the decision-making entity consists of preparing and following up on IPU meetings, but it should be noted that in 67% of cases, its duties also include the authorisation and oversight of finances relating to participation in IPU.

4. In most cases the entity is headed by the presiding officer of parliament (68% of responses). Half of the respondents said that the entity meets in the course of the year in connection with every statutory session of the IPU, while 61% of the respondents said that meetings were organised as the need arose.

³ Bangladesh, Bolivia, Burundi, El Salvador, Kyrgyzstan, Libyan Arab Jamahiriya, Malta, Mauritania, Niger, Peru, Sao Tome and Principe, Serbia and Montenegro.

B. Membership of the parliament in the IPU

5. The entire membership of the parliament is de facto member of the IPU in 78% of cases. Significantly, perhaps, a large number of Members chose not to answer the question on how the members of the IPU group were chosen. Only two Members replied that membership of the IPU group depended on being a member of a particular parliamentary standing committee.

C. Administration and funding

6. With respect to funding for the IPU, the vast majority of respondents (85%) stated that such funding was provided as part of the overall budget of the parliament. Only nine parliaments included the funding as a separate entry in the budget of the State. In some cases further funds are provided in the form of membership contributions to the group, either mandatory or voluntary.

D. Delegations to IPU meetings

7. The question of who decided on the composition of delegations to IPU meetings met with a varied response. In many cases, it was the presiding officer of parliament, and, in almost as many, the political party. Other answers included the external relations committee, the executive committee, or the president of the group. The majority (60%) reported that the basis for establishing the composition of the delegation depended on the nature of the meeting, while others referred to rotating schemes, and some reported that the membership of the delegation was fixed regardless of the nature of the meeting.

E. Preparation and follow-up to IPU meetings

8. In the preparation for IPU meetings, the relevant parliamentary standing committees were only consulted in 35% of cases. Government agencies, on the other hand, were consulted in 66% of the parliaments, but the parliamentary research service was used in less than half of the cases. The parliament was informed of the outcome of IPU meetings through delegations' reports in the vast majority of cases, and there was targeted distribution of IPU resolutions in the parliaments of half of the total respondents. Special parliamentary debates organised as a result of IPU meetings were held in a mere 10% of cases.

9. Governments were kept abreast of IPU meetings through written reports and targeted distribution of resolutions, the former slightly exceeding the latter.

10. The continued follow-up of IPU resolutions was ensured, in roughly equal measure, through questions to members of government and internal parliamentary reporting exercises, but the response was relatively lukewarm and in neither case topped the fifty per cent mark.

11. As to informing the broader public and the media of the results of IPU meetings, the most popular response by far (60%) was to hold press conferences and other media events. Wide use is also made of the Internet.

CONCLUSIONS

12. The Executive Committee welcomes the substantial increase in the number of reports submitted by the Members of the Union and the wealth of information provided in their reports. The Committee

will continue to examine this information and submit a more comprehensive report to the Governing Council at its 175th session in Geneva in September/October 2004.

13. At the same time, the Committee remains concerned at the large number of members who have not submitted a report, in keeping with their statutory duty, and, worse still, that 12 Members of the IPU have never submitted a report. The Committee calls on all of these Members to submit a response to the questionnaire within the next three months, and by the latest 30th June, so that the additional information can be included in this second report.

14. The Committee will revert to the issue of the failure by some Members to fulfil their statutory duty of submitting an annual report and consider further measures to ensure that all do so.

15. Finally the Executive Committee recommends that the IPU Secretariat develop similar types of questionnaires in the future as a means of gathering information on the activities of Member Parliaments.

SECOND WORLD CONFERENCE OF SPEAKERS OF PARLIAMENTS

Report on the first meeting of the Preparatory Committee

*Noted by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

1. A first meeting of the Preparatory Committee for the Second World Conference of Speakers of Parliaments was held at IPU Headquarters in Geneva on 26 and 27 January 2004. A list of members of the Preparatory Committee is attached in Annex I.

2. After the opening formalities, the meeting began its substantive agenda by reviewing the background to the Conference. The declaration adopted by the Presiding Officers at their first Conference in 2000 had marked a significant turning point in parliamentary involvement in multilateral relations, but it remained to be seen how deeply its intent had percolated into the day-to-day business of national parliaments. The world was changing, and in some respects it had become a less democratic place since the events of 11 September 2001, a development which boded ill for the objective of bringing a parliamentary dimension to the work of international institutions.

3. It was decided that a questionnaire (see Annex II) would be sent to all Presiding Officers of Parliament to evaluate progress achieved on the basis of the commitments made by the Speakers attending the First Conference to provide a parliamentary dimension to international cooperation and thus offer support to the United Nations.

4. It was also agreed that the Second Conference should serve to clarify further the IPU's role in relation to the United Nations. Specifically, the event should help to build the necessary will, both in parliaments and in governments, to give the IPU political and operational responsibilities in matters relating to the promotion of peace and security, democracy, human rights and gender parity. The Conference should therefore also assist in strengthening the links between the IPU, parliaments and their presiding officers.

5. The Committee also decided that the questionnaire would include a section on legislative and oversight steps taken in national parliaments to promote both the knowledge and fulfilment of the Millennium Development Goals (Annex III).

6. A first evaluation of the findings of the questionnaire will be undertaken by the Preparatory Committee at its second meeting. The Committee will finalise this evaluation at a third meeting and, with the assistance of the United Nations, feed it into the intergovernmental evaluation exercise.

7. The Committee also decided to explore the possibility of establishing indicators relating to parliamentary democracy. The IPU Secretariat was asked to seek the assistance of experts in preparing a comprehensive information document which the Committee would examine at its next meeting.

8. The Speakers reviewed a draft Charter of the Rights and Duties of States prepared by the President of the German Bundestag, Mr. W. Thierse. While agreeing that the draft was a useful exercise in determining certain moral criteria that should be adopted by governments, the Committee did not reach a decision as to what follow-up the document should be given and decided to defer further consideration of the matter until its next meeting.

9. The Committee heard a presentation from Mrs. Birgitta Dahl, former Speaker of the Parliament of Sweden, who was representing the high-level panel appointed by the United Nations Secretary-General to report on relations between the UN and civil society, named the Cardoso Panel after its chairman, the former President of Brazil.

10. The participants listened with interest to the presentation and then informed the panel representative that it believed it unwise of the United Nations to consider involving parliaments in its work without doing so through the Inter-Parliamentary Union, the body recognised in the Millennium Declaration as the appropriate intermediary for such activities.

11. The next session of the Preparatory Committee will be held in Budapest at the invitation of the Parliament of Hungary on 2 and 3 September 2004.

ANNEX I

Preparatory Committee of the Second Conference of Speakers of Parliaments

President

Mr. S. Páez Verdugo, President of the Inter-Parliamentary Union

Presiding Officers of National Parliaments

Mr. Hormando Vaca Diez, President of the Senate of Bolivia
Mr. G. Nzouba Ndama, President of the National Assembly of Gabon
Mr. W. Thierse, President of the Bundestag of Germany
Ms. K. Szili, President of the National Assembly of Hungary
Mr. P.F. Casini, President of the Chamber of Deputies of Italy
Mr. A. Majali, Speaker of the House of Representatives of Jordan
Ms. I. Udre, Chairman of the Saeima of Latvia
Mr. I. Boubakar Keita, President of the National Assembly of Mali
Mr. E. Jackson Ramirez, President of the Senate of Mexico
Mr. A. Radi, President of the Chamber of Representatives of Morocco
Mr. M. Tjitendero, Speaker of the National Assembly of Namibia
Mr. K. Yong Park, Speaker of the National Assembly of the Republic of Korea
Mr. B. Gryzlov, Chairman of the State Duma of the Russian Federation
Mr. J.M. Perera, Speaker of the Parliament of Sri Lanka
Mr. B. von Sydow, Speaker of the Riksdag of Sweden

Members of the Executive Committee

Mr. S. Fazakas, President of the Inter-Parliamentary Group of Hungary
Mr. Francis K. Ole Kaparo, Speaker of the National Assembly of Kenya
Mr. Lü Congmin, Vice-Chairman of the Foreign Affairs Committee of the National People's Congress
Ms. Z. Ríos-Montt, MP, Vice-President of the Foreign Affairs Committee of the Congress of the Republic of Guatemala (until the expiry of her term)

Representatives of the British and French Groups, Founding Members of the IPU

Mr. R. del Picchia, Executive President of the French IPU Group
Mr. J. Austin, President of the British IPU Group

Senior representative of the United Nations Secretary-General

Mr. M. Moller, Director, Political, Peacekeeping and Humanitarian Affairs

Secretary General of the Inter-Parliamentary Union

Mr. A.B. Johnsson

ANNEX II

BEST PRACTICES FOR ACTION TAKEN BY PARLIAMENT TO CONSOLIDATE ITS INVOLVEMENT IN INTERNATIONAL AFFAIRS

TEN QUESTIONS ADDRESSED TO SPEAKERS OF PARLIAMENTS

1. In their declaration adopted in 2000, each of the Presiding Officers of National Parliaments committed their respective parliament to undertake a review of parliamentary procedures so that it could make an appropriate contribution to inter-governmental negotiations. Has such a review been undertaken? Did it lead to any changes and, if so, which?
2. Please describe instances where your parliament has taken steps to:
 - (i) Ensure that a particular negotiating process is being monitored in parliament, examined and discussed in parliamentary committees and/or the plenary, that ministers and negotiators have been heard and negotiating mandates have been issued, etc.;
 - (ii) Make sure that signed agreements are also promptly debated in parliament for possible ratification, e.g. by raising questions in the chamber;
 - (iii) Make sure that international agreements are followed up and implemented by governments.
3. The 2000 declaration stressed the need to strengthen information gathering and dissemination. Please describe steps taken in parliament since that time to improve the availability of information on international issues. Specifically,
 - (i) Describe any steps taken to disseminate information in parliament on international negotiations (for example on trade), or gather information from new sources;
 - (ii) Indicate if any links (electronic or otherwise) were established to receive information directly from international organisations such as the United Nations and its specialised agencies, the World Bank, the IMF or the WTO;
 - (iii) Describe any action taken to relay this information to parliamentary committees and members of parliament;
 - (iv) Indicate whether parliament was able to use information provided by the IPU and benefit from some of the linkages to international institutions and procedures that the IPU offers.
4. The declaration also called for better citizens' involvement. What steps has your parliament taken to strengthen public involvement in parliamentary decision-making? Please describe initiatives taken by your parliament, such as holding public hearings, inviting written submissions by the public and civil society organisations, using modern information technology (e.g. internet) to interact with the public, facilitating public knowledge about parliamentary business, etc.
5. The 2000 declaration also called on parliaments to make more extensive and better use of parliamentary diplomacy which can be particularly helpful in advancing solutions to

problems relating to peace and security. Please provide examples of such actions which your parliament has been involved in since the conference.

6. In their 2000 declaration, Presiding Officers also called for parliaments to make the best possible use of regional inter-parliamentary organisations and through them seek to influence the corresponding intergovernmental bodies. Parliaments should examine closely the work of such organisations in order to increase their efficiency and avoid duplication. Please indicate any steps taken by your parliament to achieve greater coordination and coherence in its relations with inter-parliamentary organisations and networks.

7. In their 2000 declaration, the Presiding Officers expressed their commitment to consolidate the IPU as the world organisation of national parliaments, to participate in the organisation with renewed vigour, to provide it with the necessary resources and strengthen the organisation and its links with national parliaments. Please indicate what steps your parliament has taken to follow up on this commitment.

8. In the Millennium Declaration, the Heads of State and government called for stronger cooperation between the UN and national parliaments – through the IPU – in support of UN action, thereby responding to the Presiding Officers' pledge to support the United Nations.

Please provide specific examples of action taken by your parliament in support of the Goals set out in the United Nations Millennium Declaration (see attached list of the eight Millennium Goals). Please specify the type of action that was taken, legislative or oversight, and any action taken by parliament to publicise the goals. Please include information on the source of the action, and its outcome.

9. Successfully meeting the Millennium Development Goals will require parliaments to scrutinise development policies and programmes. Please provide instances of specific action taken by your parliament to examine and influence your country's development policies, for example by:

- (i)** Examining and influencing your own country's development policy and priorities;
- (ii)** As a donor country: examining your country's development aid, including aid provided through multilateral financial institutions such as the World Bank and the International Monetary Fund, as well as the policies pursued by these institutions;
- (iii)** As a developing and recipient country: examining development aid programmes, including those negotiated with the World Bank and International Monetary Fund and any conditionality that is proposed and its compatibility with national development plans and priorities.

When answering this question, please indicate the type of direct interaction parliament and its members may have had with donors and institutions.

10. The members of the Preparatory Committee would greatly appreciate receiving your guidance in preparing the next Conference of Speakers of Parliaments. While the overall objective of the Conference will be to examine the status of parliamentary involvement in international affairs, the Preparatory Committee would welcome suggestions for specific themes the Conference could address. Please also indicate

whether you would wish the Conference of Presiding Officers to be institutionalised and, if so, specify its objective and how frequently it should meet.

ANNEX III

The Millennium Development Goals and their targets at a glance

GOALS	TARGETS
1. Eradicate extreme poverty and hunger	<ul style="list-style-type: none"> ➤ Halve, between 1990 and 2015, the proportion of people whose income is less than US\$1 a day ➤ Halve, between 1990 and 2015, the proportion of people who suffer from hunger
2. Achieve universal primary education	<ul style="list-style-type: none"> ➤ Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling
3. Promote gender equality and empower women	<ul style="list-style-type: none"> ➤ Eliminate gender disparity in primary and secondary education preferably by 2005 and to all levels of education no later than 2015
4. Reduce child mortality	<ul style="list-style-type: none"> ➤ Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate
5. Improve maternal health	<ul style="list-style-type: none"> ➤ Reduce by three-quarters, between 1990 and 2015, the maternal mortality ratio
6. Combat HIV/AIDS, malaria and other diseases	<ul style="list-style-type: none"> ➤ Have halted by 2015, and begun to reverse, the spread of HIV/AIDS ➤ Have halted by 2015, and begun to reverse, the incidence of malaria and other major diseases
7. Ensure environmental sustainability	<ul style="list-style-type: none"> ➤ Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources ➤ Halve, by 2015, the proportion of people without sustainable access to safe drinking water ➤ By 2020, to have achieved a significant improvement in the lives of at least 100 million slum dwellers
8. Develop a global partnership for development	<ul style="list-style-type: none"> ➤ Develop further an open, rule-based, predictable, non-discriminatory trading and financial system (<i>Includes a commitment to good governance, development, and poverty reduction – both nationally and internationally</i>) ➤ Address the special needs of the Least Developed Countries (<i>Includes: tariff and quota free access for LDC exports; enhanced programme of debt relief for HIPC and cancellation of official bilateral debt; and more generous ODA for countries committed to poverty reduction</i>) ➤ Address the special needs of landlocked countries and Small Island Developing States (<i>through Barbados Programme and 22nd General Assembly provisions</i>) ➤ Deal comprehensively with the debt problems of developing countries through national and international measures in order to make debt sustainable in the long term ➤ In cooperation with developing countries, develop and implement strategies for decent and productive work for youth ➤ In cooperation with pharmaceutical companies, provide access to affordable, essential drugs in developing countries ➤ In cooperation with the private sector, make available the benefits of new technologies, especially information and communication

Source: *Choices supplement, March 2002, UNDP, New York*

**REPORT ON THE SEMINAR ON
STRENGTHENING PARLIAMENT AS A GUARDIAN OF HUMAN RIGHTS:
THE ROLE OF PARLIAMENTARY HUMAN RIGHTS BODIES**

(Geneva, 15-17 March 2004)

*Noted by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

1. Parliaments have an essential role to play in promoting and protecting human rights. The way in which human rights are integrated into daily parliamentary work has a strong influence on the extent to which parliaments live up to their role as guardians of human rights. The existence within parliaments of bodies with an explicit and permanent mandate to address human rights questions is an effective means of ensuring that these issues permeate all parliamentary activity on a continuing basis.
2. The Seminar *Strengthening Parliament as a Guardian of Human Rights: The Role of Parliamentary Human Rights Bodies* brought together some 140 members of parliamentary human rights bodies as well as selected members of international, regional and national human rights mechanisms in order to exchange views and identify best practices for enhancing the protection of human rights at the national level. The Seminar, which was the first of its kind, was organised by the IPU and the United Nations Development Programme (UNDP) with the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR).
3. The Seminar centred around three themes. The first day, presentations and discussions focused on parliamentary human rights bodies themselves: their mandate (terms of reference), functioning and working methods. The second day dealt with parliamentary human rights bodies and their relationship with the UN and regional human rights mechanisms. The third and last day focused on parliamentary human rights bodies and their relationship with National Human Rights Institutions, NGOs and civil society.
4. There was no formal outcome document at the end of the Seminar. However, the Chair of the final part of the Seminar, Ms. Loretta Ann P. Rosales, Chairperson, Committee on Civil, Political and Human Rights of the House of Representatives of the Philippines, made some concluding observations (see Annex) which reflect the gist of the presentations and debate. Parliamentarians in attendance greatly appreciated the opportunity offered by the Seminar to discuss the challenges in promoting and protecting human rights, both with each other and with international and regional human rights experts. There was overall support for holding similar meetings on a regular basis which could focus on particular themes of relevance to the work of parliamentary human rights bodies and their members.

ANNEX

**Concluding observations by the Chair, Ms. Loretta Ann P. Rosales,
Chairperson, Committee on Civil, Political and Human Rights of the
House of Representatives of the Philippines**

We have come together these last three days to discuss parliamentary human rights mechanisms and to exchange experiences on how we – as human rights practitioners in parliaments – can be more effective in ensuring respect for rights at home and interact more efficiently with regional and global human rights structures and procedures.

Our starting point was our conviction that we, as elected representatives of the people, and our institution the parliament are the guardians of human rights or as the bastion of human rights. We must see to it that norms for the protection of the human being are translated into national laws. Likewise, we have a duty to oversee the implementation of policies and programmes to ensure that they meet the standards and goals we have set. Finally, we have a natural role, as politicians, to raise issues relating to human rights in public debate and to help forge national consensus to uphold human rights.

While we all agree that everyone in parliament and therefore also every parliamentary committee should take human rights into account in their work, we believe that it is important that a parliamentary committee be specially designated to address human rights issues and make sure that human rights are indeed treated as cross-cutting issues in parliament.

During our discussions we have examined the very wide variety of human rights structures in parliament, their functions and powers. Some of the more important of these powers that were mentioned included the right to summon ministers and government officials, request written reports and documents, hold public hearings particularly with NGOs which constitute an invaluable fountain of information, set up inquiry commissions, undertake field visits, especially to prisons and detention centres, make oral and written questions, etc on action taken on reports and recommendation.

We have heard some very interesting examples of what can be done and I would like to highlight one example from Brazil where the parliamentary human rights committee launched a campaign for the valorisation of human rights in the media, particularly TV. In a country where 97% of the population watches TV, certain programs can annul human rights efforts and efforts to implement a peace culture. Together with UNESCO the committee worked on a programme to fight against such programs, and complaints can now be lodged by telephone (Internet) and raised with competent authorities, the media and their financing institutions (such as multinational corporations) and lead to sanctions. At the same time, the NGOs work with the TV stations to convince them not to send or modify certain programs. There are also campaigns to incite people not to “consume” such programs.

We have also stressed the importance of ensuring that all MPs within a parliament have the same understanding of human rights. Indeed, unless we as a group agree on human rights, we won't be able to promote and protect them. Hence the need for training programmes.

In order to do that, MPs must also be able to disagree with their own party on human rights matters. As some of you have pointed out, we have to abandon partisan considerations in human rights. Of course, this also presupposes that there is respect for parliamentary immunities.

We also stressed that we have an important role to play at the international level and we must become much more active in order to preserve human rights today. How many of us do in fact know how our countries vote in the UN Human Rights Commission? How many of us know what instruments our countries have ratified, what reservations our governments have entered when doing so and what periodical reports have been submitted or are due to be submitted?

In order to be more active, we have many tools at our disposal. We can raise questions about ratification, and many of you stressed the need to ratify quickly the Optional Protocol to the Convention against Torture and the Rome Statute. But we can also raise questions about the many reservations that have been made when ratifying conventions, many of which have the pernicious effect of annulling their content.

Our colleague from South Africa gave a concrete example from her country which I think we would all do well to follow. In her country, all national reports to international monitoring bodies have to go to parliament for debate, and parliament ensures that those reports contain a wide variety of views, including those of civil society. To do so, parliament holds debates and public hearings, calls in ministers and requests documents and reports from a wide range of departments and citizens. In South Africa, members of parliament are included in the national delegation to the international monitoring mechanisms so that they can better understand the recommendations that are subsequently made, and of course the parliament plays an active role in ensuring that these recommendations are also followed up and implemented at the national level.

We have also heard several examples of how best to use international norms as minimum standards for national legislation. Many of you point to the need for international law to prevail and, as one of you put it, we are the architects of the norms so we must ensure their application.

We referred to the regional and sub-regional human rights mechanisms, and we all agree that we can do more to interact with those mechanisms. This I think is particularly true on the African continent where there does not yet seem to be much interaction between the African Commission on Human and Peoples' Rights and the parliamentary human rights bodies. Improvements can also be made on the Latin-American and the European continents.

Of course, at meetings such as this one of parliamentary human rights activists, it is impossible not to talk also about the substance of human rights. From the many interventions that have been made, I believe it is clear that we all agree on the universality, inter-dependence and indivisibility of human rights, although cultural, economic and social differences exist and will of course have to be taken into consideration. We have heard concrete examples of how this can be done, for example, in relation to the application of the Convention on the Rights of the Child in Africa.

We also agree that human rights concern everyone and that we must act together as an international community. Human rights are not a slogan, nor even an ideology, they are juridical, ethical and moral principles which apply to everyday life. Defending human rights means defending the human rights of everyone, even those whose ideas one does not share.

Human rights have made progress at the level of norms, and the problem today lies more in the field of their implementation. You gave many examples of practical obstacles to implementation these days, particularly the absence of resources, including economic, material and human resources. The HIV/Aids pandemic, migration and refugee problems, trade regulations and the behaviour of some States all pose serious problems to human rights.

Many of us, both men and women, have underscored the importance of ensuring equality between men and women as an essential part of human rights promotion and protection. Although we recognise that progress has been made, the level of participation of women in political life is still very disappointing and it is hardly better at this seminar, where only 17% of us are women. We all agree that we have to do much better, much sooner.

Human rights education has also run as a red thread through our discussions. Most of us have underscored the need to create a human rights culture, and the way to do that is by ensuring that all education programmes have a clear human rights focus. When we say education programmes, we do not mean just education in school, but also law enforcement, agencies, etc.

Many of us have also referred to the fight against terrorism, whether state or non-state, which infringes upon human rights. We all agree that terrorism must always be condemned. Terrorism has no religion, no country and no excuse. However, what is equally important is that the fight against terrorism must not result in new human rights violations.

This brings us back to the beginning of our seminar when we observed a minute of silence in memory of the victims of the terrorist attack in Madrid. Our thoughts also went to the victims of the terrorist attacks of 11 September 2001 and to those of the attack of August 2003 on the UN headquarters in Baghdad, in which the former United Nations High Commissioner for Human Rights, Mr. Sergio Viera de Mello, perished. In our minute of silence, we included all victims of gross human rights violations; the indigenous peoples of America and Asia-Pacific, the Arab people and the people of Israel, Latin-America and Africa. Ten years ago, hundreds of thousands of Rwandans were slaughtered in the genocide. We should never forget this tragedy, and I invite all of you to join our colleagues from Rwanda in an act of remembrance on 7 April.

Finally we have spent time discussing where we go from here. Clearly, we want to see increased efforts in strengthening parliament's ability to carry out human rights work. We therefore welcome the partnership between the IPU, the UNDP and the Office of the High Commissioner for Human Rights, and their offer to increase support programmes for parliament in the area of human rights. We believe that such activities can be carried out most profitably at the national, sub-regional and regional levels. Ideally, such activities should focus not only on increasing MPs' knowledge of human rights issues and mechanisms, but should also develop the institutional capacity in parliament.

At the same time, I believe we all agree that this seminar has been extremely useful, and that we should find a way of holding future seminars of this nature. We believe that the interaction that it allows between us and the Commission on Human Rights can only be beneficial to our work back home. We therefore invite the IPU, working together with UNDP and the High Commissioner's Office, to consider holding further meetings of this nature in the coming years.

We also invite the IPU to consult with us on specific topics that can be included in the agenda of those future meetings.

Geneva, 17 March 2004

**SUMMARY OF DECISIONS TAKEN BY THE
28th SESSION OF THE CSCM COORDINATING COMMITTEE**

Nice, 10 and 11 February 2004

*Note by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Coordinating Committee agreed that:

- The time had come to establish a Parliamentary Assembly of the Mediterranean, without any pre-conditions.
- The Parliamentary Assembly would be complementary to the Euro-Mediterranean Parliamentary Assembly established within the framework of the Barcelona Process. This latter institution was established between, on the one hand, national parliaments of the member countries of the European Union and the European Parliament and, on the other, most but not all the parliaments of the countries on the southern shores of the Mediterranean. Its competence extends principally to issues concerning the Euro-Mediterranean Partnership.
- The proposed Parliamentary Assembly would be different in nature. The parliaments of all the countries of the Mediterranean basin would be represented in the Assembly on an equal basis.
- The Assembly would address issues of common concern and would aim at fostering relations of confidence between Mediterranean States so as to ensure regional security and stability and to unite their endeavours in a true spirit of partnership with a view to the harmonious development of the different States. The Assembly would draw up and submit to the respective parliaments opinions, recommendations and other advisory instruments that should assist in the realisation of its objectives.
- The Assembly would have three Standing Committees: Committee on Political and Security-related Cooperation; Regional Stability; Committee on Economic Social and Environmental Cooperation; Co-development, and Partnership; and Committee on Dialogue among Civilisations and Human Rights. Each Standing Committee will be composed of at least one representative from each member parliament.
- The mandate of the three Standing Committees would be that set out in the Marrakech document, with the following modifications: The Second Standing Committee should include a reference (see above) to the environment in its title, the reference to the Barcelona process should be deleted and a reference to technological innovation should be added.
- The Assembly would establish a task force on gender issues within the Third Standing Committee on Dialogue among Civilisations and Human Rights, whose function would be to monitor gender issues within the institution and make recommendations for action.
- The Assembly could establish ad hoc or select committees to address specific issues. National delegations could propose the establishment of such committees. Upon the recommendation of the Bureau, the plenary Assembly would then take a decision on the matter.
- The Assembly would be an autonomous institution with its own legal personality. It would be created by decision of the national parliaments of the Mediterranean. It would have its own statutes. It would maintain an institutional link with the IPU, and this link would be reflected in the Statutes of both institutions.

- The Assembly would build upon the IPU CSCM Process. It would have members, associate members and observers. The members would be representatives of those parliaments that are currently members of the CSCM Process, i.e. the Mediterranean littoral States, as well as Jordan and Portugal. The associate members would be those currently holding this status in the CSCM Process.
- The Assembly would initially meet once a year at the invitation of a parliament of a Mediterranean country.
- The principle of equality would govern the composition of the Assembly and its decision-making process. Each parliament would be entitled to send five members of parliament to the Assembly. Decisions would be taken by consensus. However, in instances where it was not possible to reach consensus, the Assembly would take decisions by a four-fifths majority vote.
- Each delegation would be entitled to five votes, provided at least two members were present at the time of the vote. If only one delegate were present, he or she would be entitled to one vote only*.
- All member parliaments would be encouraged to include representatives of both genders in their delegation to the Assembly. Equally, every effort should be made to ensure that both genders are represented in the Bureau.
- The Assembly would elect a President and four Vice-Presidents. The Assembly would also elect a President for each of the three Standing Committees.
- The work of the Assembly would be prepared by a Bureau composed of the President of the Assembly and four Vice-Presidents, the three Presidents of the Standing Committees.
- Every effort should be made to ensure an equitable representation in the Bureau of the different regions of the Mediterranean, by rotation.
- Subject to endorsement by the full membership of the CSCM Process of the proposal to establish a Parliamentary Assembly of the Mediterranean at its next meeting in Mexico City, the Coordinating Committee would proceed to draw up Statutes for the proposed Assembly.
- The IPU would be invited to organise a Fourth and final CSCM Conference in late 2004 or early 2005. On that occasion the members of the CSCM Process would formally establish themselves as the Parliamentary Assembly of the Mediterranean. The Assembly would then establish its own internal rules and procedures.
- The Assembly would eventually have its own independent secretariat located in a Mediterranean country. In the immediate future, however, the IPU would provide secretariat support to the Assembly. The Secretary General would present budget proposals to the CSCM participants meeting in Mexico City for the functioning and basic secretarial support for the Assembly in the year 2005. Until that time, the IPU Secretariat would continue to provide support to the Process with existing resources.

* While there was general agreement to this arrangement, the representatives of France, Italy and Spain expressed a preference for a weighted voting system that would give a slightly higher number of votes to those countries that had a larger population. Moreover, some of the participants felt there was a need to follow the precedent set by the IPU whereby any delegation that for three consecutive sessions is composed exclusively of parliamentarians of the same sex has its voting entitlement decreased.

RECOMMENDATIONS OF THE PANEL ON THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN

***Noted by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)***

I. Recommendations for parliamentarians

- (a) To ensure ratification of the following international instruments:
 - The Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography;
 - The Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Palermo Convention);
 - The Worst Forms of Child Labour Convention, 1999 (No. 182) of the International Labour Organization.
- (b) To bring into line legislation to prohibit and punish all aspects of child sexual exploitation, including the purchase, trafficking, sale and use of children for the purpose of pornography and prostitution. To ensure that laws do not criminalize victims of commercial sexual exploitation and that the victims are given appropriate care and support, including for example health care, educational opportunities and training, a safe place to live and legal protection, and that the appropriate infrastructure is provided for children who do not have persons who care for them, including those infected with HIV/AIDS.
- (c) To work closely with the private sector and organised civil society to protect children from commercial sexual exploitation
 - To work with the tourist sector to adopt, implement and monitor codes of conduct to prevent sexual tourism;
 - To work with Internet providers to supply data with a view to strengthening legal efforts to protect children from abuse;
 - To work with trade unions and the media.
- (d) To ensure that budgetary resources are available to allow preventive measures to focus on the main causes that give rise to commercial sexual exploitation, through poverty reduction, education, the promotion of gender equality and non-discrimination, the prevention of sexual abuse, the protection of children having no one to care for them, strengthening of laws, training of police officers and social workers and health and social services that care for victims of commercial sexual exploitation. To ensure that special attention is provided to children vulnerable to HIV/AIDS.
- (e) To use their influence to put forward the subject of commercial sexual exploitation of children as a violation of human rights and as a criminal offence, in particular involving the media in this effort.
- (f) To make use of their leadership, access and influence at the national and community level. In many societies, parliamentarians and other local leaders are considered guardians of customs and cultures. Parliamentarians can therefore exert a powerful influence by prompting the adoption of public policies that respect and safeguard the rights of children and adolescents.
- (g) To implement national plans of action for the elimination of commercial sexual exploitation of children, in accordance with the Stockholm and Yokohama commitments.
- (h) To promote the participation of children in assisting child victims of violence and exploitation.

II. Recommendations for the Inter-Parliamentary Union and for international cooperation

- (i) To introduce a system in the Inter-Parliamentary Union to share information on successful laws and strategies relating to all subjects of child protection, including the commercial sexual exploitation of children. This may be done in a virtual child protection centre, which may provide legislators with information and support related to child protection.
- (j) To request the Governing Council to consider the possibility of organising regional workshops on the question of child protection, and more specifically on the commercial sexual exploitation of children, so as to follow up on the work of the Panel.
- (k) To organise a panel on violence against women, children and adolescents in areas of armed conflict, including rape as an instrument of war, at the 112th Assembly of the IPU.
- (l) To request the Governing Council to study the possibility of establishing, as soon as possible, a sub-committee on child protection, which will be responsible for the follow-up to the Panel's work and for other subjects related to child protection.

III. Recommendation for UNICEF

- (m) In cooperation with the Inter-Parliamentary Union, to provide follow-up at the national level to the IPU/UNICEF Handbook for Parliamentarians on child protection, which was launched at the 110th IPU Assembly.

Future Meetings and other Activities

***Approved by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)***

Meeting of Speakers of Parliaments of the countries neighbouring Iraq on the constitutional process in Iraq	AMMAN (Jordan) 12-13 May 2004
African Parliamentary Conference on “the protection of refugees in Africa”, organised by the African Parliamentary Union	COTONOU (Benin) 1-3 June 2004
Parliamentary Forum on the occasion of the International Conference for Renewable Energies organised by the German Bundestag	BONN (Germany) 2 June 2004
Parliamentary Meeting on the occasion of UNCTAD XI, organised jointly by the IPU and the Brazilian National Congress	SÃO PAULO (Brazil) 11-12 June 2004
Seminar for the Arab region on “Parliament and the budgetary process, including from a gender perspective”, organised by the IPU and UNDP, in cooperation with the host Parliament and the Arab Inter-Parliamentary Union	BEIRUT (Lebanon) 22-24 June 2004
106 th Session of the Committee on the Human Rights of Parliamentarians	GENEVA (IPU Headquarters) June/July 2004
Sixth Workshop of Parliamentary Scholars and Parliamentarians, organised by the Centre for Legislative Studies at the University of Hull	OXFORD (United Kingdom) 31 July-1 August 2004
Second Meeting of the Preparatory Committee of the Second World Conference of Speakers of Parliaments	BUDAPEST (Hungary) 2-3 September 2004
Seventh Session of the Steering Committee of the Parliamentary Conference on the WTO	GENEVA (IPU Headquarters) 6-7 September 2004
111 th Assembly and Related Meetings	GENEVA (CICG) 28 September-1 October 2004
Parliamentary Hearing at the United Nations on the occasion of the 59 th General Assembly	NEW YORK October/November 2004
Brussels Session of the Parliamentary Conference on the WTO, jointly organised with the European Parliament	BRUSSELS (Belgium) 24-26 November 2004
Information Seminar on the Structure and Functioning of the Inter-Parliamentary Union	GENEVA (IPU Headquarters) November/December 2004

108th Session of the Committee on the Human Rights of
Parliamentarians

GENEVA (IPU Headquarters)
January 2005

112th Assembly and Related Meetings

MANILA (Philippines)
3-8 April 2005

Invitations received

114th Assembly and Related Meetings

NAIROBI (Kenya)
March/April 2006

116th Assembly and Related Meetings

ADDIS ABABA (Ethiopia)
March/April 2007

118th Assembly and Related Meetings

BANGKOK (Thailand)
March/April 2008

AGENDA OF THE 111th ASSEMBLY

28 September – 1 October 2004

*Approved by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

1. Election of the President and Vice-Presidents of the 111th Assembly
2. Consideration of possible requests for the inclusion of an emergency item in the Assembly agenda
3. The role of parliaments in strengthening multilateral regimes for non-proliferation of weapons and for disarmament, in the light of new security challenges.
(Committee on Peace and International Security)
4. The role of parliaments in preserving biodiversity
(Committee on Sustainable Development, Finance and Trade)
5. Beijing+10: An evaluation from a parliamentary perspective
(Committee on Democracy and Human Rights)
6. Amendments to the Statutes and Rules of the Inter-Parliamentary Union
7. Approval of the subject items for the 112th Assembly and appointment of the Rapporteurs

**LIST OF INTERNATIONAL ORGANISATIONS AND OTHER BODIES INVITED
TO FOLLOW THE WORK OF THE 111th ASSEMBLY AS OBSERVERS**

*Approved by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

Palestine

United Nations (UN)
United Nations Conference on Trade and Development (UNCTAD)
International Labour Organization (ILO)
Food and Agriculture Organization of the United Nations (FAO)
United Nations Educational, Scientific and Cultural Organization (UNESCO)
World Health Organization (WHO)
World Bank
International Monetary Fund (IMF)
International Fund for Agricultural Development (IFAD)
World Trade Organization (WTO)

African Union (AU)
Council of Europe
International Organization for Migration (IOM)
Latin American Economic System (LAES)
League of Arab States
Organization of American States (OAS)

ACP-EU Joint Parliamentary Assembly (JPA)
African Parliamentary Union (APU)
Amazonian Parliament
Arab Inter-Parliamentary Union
ASEAN Inter-Parliamentary Organization (AIPO)
Assemblée parlementaire de la Francophonie
Assembly of the Western European Union (WEU)
Association of Asian Parliaments for Peace (AAPP)
Baltic Assembly
Commonwealth Parliamentary Association (CPA)
Confederation of Parliaments of the Americas (COPA)
European Parliamentarians for Africa (AWEPA)
Indigenous Parliament of the Americas
Inter-Parliamentary Assembly of the Eurasian Economic Community
Inter-Parliamentary Assembly of the Commonwealth of Independent States
Inter-Parliamentary Committee of the West African Economic and Monetary Union (WAEMU)
Inter-Parliamentary Council against Antisemitism
Maghreb Consultative Council
Nordic Council
Parliament of the Economic Community of West African States (ECOWAS)
Parliamentary Assembly of the Black Sea Economic Co-operation (PABSEC)
Parliamentary Assembly of the OSCE
Parliamentary Assembly of the Union of Belarus and the Russian Federation
Parliamentary Association for Euro-Arab Co-operation (PAEAC)
Parliamentary Union of the Organisation of the Islamic Conference Members (PUOICM)
Southern African Development Community Parliamentary Forum (SADC)

Amnesty International

International Committee of the Red Cross (ICRC)

International Federation of Red Cross and Red Crescent Societies (IFRC)

World Federation of United Nations Associations (WFUNA)

Organisation invited to follow the work of the 111th Assembly in the light of its agenda on "The role of parliaments in preserving biodiversity":

*United Nations Convention on Biological Diversity
IUCN – The World Conservation Union*

Resolutions Concerning the Human Rights of Parliamentarians

CASE N° BLS/01 - ANDREI KLIMOV - BELARUS

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Mr. Andrei Klimov, a member of the Thirteenth Supreme Soviet of Belarus, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Taking account of the information provided by the Chairman of the Standing Committee on Legislation and Judicial Affairs of the House of Representatives at the hearing held on the occasion of the 110th Assembly (Mexico City, April 2004), and of his letter of 9 April 2004,

Recalling that on 17 March 2000 Mr. Klimov was found guilty of large-scale embezzlement and sentenced to 6 years' imprisonment in a hard labour colony and confiscation of his property; *recalling* its serious concerns that the guilty verdict and Mr. Klimov's sentence were the outcome of an unfair trial during which he was prevented from presenting his defence and thus clearing himself of the charges against him,

Considering that Mr. Klimov was released from prison on 26 March 2002, his remaining prison term having been exchanged for community service; on 26 December 2002, he was granted release from his sentence in form of community service, but will remain under supervision at his place of residence by the penal inspectorate of the Oktyabrsky District Police of Minsk until 23 March 2005, when the court case against him will definitively lapse; however, by virtue of Article 5 (para. 3.5., part I) of the Law on entry into and exit from the country, he will be prevented from travelling abroad so long as he has not repaid to the State the sum he allegedly embezzled (approx. U\$ 58,000),

Recalling that, according to the authorities, Mr. Klimov is now leading a normal life and working in his own company; he is not prevented from being politically active and may stand for election,

Noting in this respect that, according to Article 4, paragraph 12, of the Electoral Code the text of which the authorities provided to prove that Mr. Klimov may stand for election, only citizens who, pursuant to a court judgment, have been deprived of their political rights or are in detention are not permitted to take part in elections or referendums; at the hearing held in Mexico City, the Chairman of the Standing Committee on Legislation and Judicial Affairs of the House of Representatives confirmed that Mr. Klimov's sentence did not entail any deprivation of political rights; *noting* further that he provided a copy of the weekly "The Belarusian Market" newspaper, 1-7 March 2004, containing an interview with Mr. Klimov in which he declares that he will run in the 2006 presidential elections; *noting* finally that the Chairman confirmed that the non-payment of the allegedly embezzled sum is no obstacle to Mr. Klimov's standing for election,

1. *Thanks* the Chairman of the Standing Committee on Legislation and Judicial Affairs of the House of Representatives for his constant cooperation;
2. *Notes with satisfaction* that Mr. Klimov is now leading a normal life and may exercise his civil and political rights, including his right to stand for election;

3. *Decides therefore to close the public examination of this case, while authorizing the Committee on the Human Rights of Parliamentarians to continue examining this case under its confidential procedure, should it see fit;*

 4. *Requests the Secretary General to inform the authorities and the sources accordingly.*
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CASE N° BLS/05 - VICTOR GONCHAR – BELARUS⁴

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Mr. Victor Gonchar, a member of the Thirteenth Supreme Soviet of Belarus, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Taking account of the information provided by Mr. Arkhipov, Chairman of the Committee on Legislation and Judicial Affairs of the House of Representatives, at the hearing held on the occasion of the 110th Assembly,

Recalling that Mr. Gonchar, together with a friend, Mr. Anatoly Krasovsky, disappeared on the evening of 16 September 1999 and has not been found since; allegations have been made attributing his "disappearance" to State-run death squads; the authorities have consistently affirmed that all these allegations were investigated but have yielded no result, for which reason the preliminary investigation was closed in January 2003; however, it was reopened in June 2003, extended to 24 November 2003 and, according to the information provided by Mr. Arkhipov at the hearing, again extended to 24 May 2004,

Recalling also that, in September 2002, the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe (PACE) set up an Ad Hoc Sub-Committee to shed light on the circumstances of the allegedly political disappearances in Belarus and appointed a Rapporteur on the issue; *considering* that, while several requests for the Sub-Committee to visit Minsk were turned down, the Rapporteur, Mr. Pourgourides, was finally invited to visit Minsk, which visit took place from 5 to 8 November 2003; however, the Rapporteur's request for a second visit in December 2003 was turned down, the Belarusian authorities having obtained a copy of his draft report by unlawful means,

Taking account of Mr. Pourgourides's report, which was adopted by the PACE Committee on Legal Affairs and Human Rights on 27 January 2004 and is annexed to this resolution; *considering* that the Rapporteur, on the basis of the extensive information he gathered during his visit and documents made available to him, reached the conclusion "*that a proper investigation of the disappearances has not been carried out by the competent Belarusian authorities*"; on the contrary, in the light of the information he was able to gather, he has been led to believe "*that steps were taken at the highest level of the State actively to cover up the true background of the disappearances, and to suspect that senior officials of the State may themselves be involved in these disappearances*"; the report contains elements pointing to the involvement of the current Prosecutor General, Victor Sheyman, Secretary of the Belarusian Security Council at the time of the disappearances, Mr. Sivakov, currently Sports Minister and Minister of the

⁴ The Belarus delegation submitted a written declaration to the Secretariat protesting against paragraphs 2 and 4 of the operative part of the resolution.

Interior at the time of the disappearances, and a high-ranking officer of the special forces, Colonel Pavlichenko, in the disappearances, including that of Mr. Gonchar and Mr. Krasovsky,

Considering finally that the Belarusian delegation, most recently through Mr. Arkhipov at the hearing held in Mexico City, has consistently affirmed that the Belarusian Parliament was closely following the investigation, being continuously briefed by the Prosecutor General, and was just as anxious as the IPU to establish the whereabouts of Mr. Gonchar,

1. *Thanks* the Chairman of the House Committee on Legislation and Judicial Affairs for the information he supplied;
 2. *Is alarmed* that very senior State officials may be involved in the disappearance of Mr. Gonchar and in cover-up activities;
 3. *Considers* that the shortcomings in the investigation and the evidence produced, as revealed in the PACE report, cannot be ignored by the Belarusian authorities if, as is their duty and as they have repeatedly stated, they are committed to fully elucidating the cases of disappearances in question, including that of Mr. Gonchar;
 4. *Urges* therefore the competent Belarusian authorities to take the necessary steps to ensure that an independent and effective investigation is conducted into this case; *insists* that this presupposes an investigation into the role State officials may have played, and *considers* in particular that the strong doubts cast on the role that the current Prosecutor General may have played disqualify him from continuing to lead the investigation in this case and should prompt the competent authorities to suspend him immediately from any responsibility in these investigations;
 5. *Urges* in particular the Belarusian Parliament to make use of its oversight function to ensure that these measures are indeed taken, and *is confident* that it will take this matter into due consideration;
 6. *Wishes* to be kept informed of the measures taken to ensure that a truly independent investigation is carried out and of its progress;
 7. *Requests* the Secretary General to convey this resolution to the competent authorities and to the sources;
 8. *Requests* the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).
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BURUNDI

CASE N° BDI/01 - S. MFAYOKURERA
CASE N° BDI/05 - I. NDIKUMANA
CASE N° BDI/06 - G. GAHUNGU

CASE N° BDI/07 - L. NTAMUTUMBA
CASE N° BDI/29 - P. SIRAHENDA
CASE N° BDI/35 - G. GISABWAMANA

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of the above-mentioned parliamentarians of Burundi, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Taking account of the information provided by one of the sources on 14 January and 15 April 2004,

Recalling that the persons concerned, elected in 1993 on a FRODEBU ticket, were assassinated and only in one case, that of Mr. Gisabwamana, have the culprits been identified, tried and sentenced,

Recalling that on 6 April 2003 a six-member parliamentary group was set up by the Transitional National Assembly to work in close cooperation with the Public Prosecutor's Office and the Minister of Human Rights, Institutional Reform and Relations with the Transitional National Assembly to ensure that the investigations into the murder of the MPs concerned are reopened and these crimes are fully elucidated; the group started its work in June 2003, meeting with the Prosecutor General and the Minister of Human Rights and delivering its first report to the National Transitional Assembly's President in July 2003,

Considering that the working group enjoys the cooperation of the Government which was set up in December 2003 as a result of the peace agreement signed in October 2003 between the then government and the main rebel movement,

Considering that one of the suspects in the murder of Mr. Sylvestre Mfayokurera was arrested shortly after committing another crime; he is detained at Mpimba Central Prison and was sentenced to life imprisonment; however, he has not as yet disclosed the names of those who masterminded Mr. Mfayokurera's murder; *considering* further that two of the presumed suspects in the murder of Mr. Innocent Ndikumana - Mr. Ivan Bigendako and Mr. Désiré Banuma - have returned from Rwanda, to which they had fled, and are in hiding in Burundi; the police are searching for them,

Noting finally that, once all hostilities have ceased, the United Nations international inquiry commission provided for by the Arusha Peace and Reconciliation Agreement will be set up, followed by the "Truth and National Reconciliation Commission", for which a law has already been adopted,

1. *Notes with satisfaction* that the parliamentary working group set up to look into the cases in question enjoys the cooperation of the competent authorities, and that its work has already yielded results;
2. *Is confident* that the efforts of the group to ensure that justice is done will also produce results in the cases of the other MPs concerned, and *wishes* to be kept informed of its work and the results obtained;
3. *Wishes to ascertain* whether the recently arrested suspect in Mr. Mfayokurera's murder has been sentenced for the crime he committed shortly before being arrested or for the murder of Mr. Mfayokurera;
4. *Reaffirms* that respect for the rights of the victims of human rights violations to truth, justice and reparation is an essential element in peace processes; *earnestly hopes* therefore that the international inquiry commission and the "Truth and National Reconciliation Commission" can start their work soon;
5. *Requests* the Secretary General to convey this resolution to the competent authorities and to inform relevant international organisations of its work on this case;

6. Requests the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).

CASE N° BDI/02 - NORBERT NDIHOKUBWAYO - BURUNDI

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004):*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Mr. Norbert Ndihogubwayo of Burundi, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd (October 2003),

Taking account of the information provided by one of the sources on 15 April 2004 concerning the case of the Burundi MPs who were assassinated (Mfayokurera et al.).

Recalling that Mr. Norbert Ndihogubwayo was the target of two attempts on his life in September 1994 and December 1995, the former leaving him severely injured and the latter forcing him into exile; Mr. Ndihogubwayo has since been able to return to Burundi and to resume his parliamentary duties,

Recalling that on 6 April 2003 a six-member parliamentary group was set up by the Transitional National Assembly to work in close cooperation with the Public Prosecutor's Office and the Minister of Human Rights, Institutional Reform and Relations with the Transitional National Assembly to ensure, *inter alia*, that the investigations into the attempts on the life of Mr. Ndihogubwayo are reopened and these crimes are fully elucidated; the group started its work in June 2003, meeting with the Prosecutor General and the Minister of Human Rights, and delivering its first report to the National Assembly's President in July 2003,

Considering that the working group enjoys the cooperation of the Government which was set up in December 2003 as a result of the peace agreement signed in October 2003 between the then government and the main rebel movement,

Considering that the group has achieved initial results in the case of the murder of MPs it is examining,

Noting finally that, once all hostilities have ceased, the United Nations international inquiry commission provided for by the Arusha Peace and Reconciliation Agreement will be set up, followed by the "Truth and National Reconciliation Commission", for which a law has already been adopted,

1. *Notes with satisfaction* that the working group has already achieved results, although not in the case of Mr. Ndihogubwayo;
2. *Is confident* that the efforts of the group to ensure that justice is done will also produce results in this case, and *awaits* with interest the group's next report;
3. *Reaffirms* that respect for the rights of the victims of human rights violations to truth, justice and reparation is an essential element in peace processes; *earnestly hopes* therefore that the international inquiry commission and the "Truth and National Reconciliation Commission" can start their work soon;
4. *Requests* the Secretary General to convey this resolution to the competent authorities and to inform the relevant international organisations of its work on this case;

5. *Requests the Committee on the Human Rights of Parliamentarians to continue examining this case and report to at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).*

**CASE N° CMBD/18 - CHHANG SONG) CAMBODIA
CASE N° CMBD/19 - SIPHAN PHAY)
CASE N° CMBD/20 - POU SAVATH)**

***Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)***

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Mr. Chhang Song, Mr. Siphan Phay and Mr. Pou Savath, members (expelled) of the Senate of Cambodia, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Taking account of the letter of the Senate President dated 3 March 2004 and of communications from one of the sources dated 25 February and 25 March 2004,

Recalling that on 8 December 2001, two days after the then Senators concerned had spoken in the Senate against the government-sponsored Criminal Procedure Code bill, they were informed of their expulsion from their party, the Cambodian People's Party (CPP) on the ground of "wrongdoings" and, a few hours later, of their expulsion from the Senate,

Recalling that Cambodian law contains no legal provision authorising political parties to revoke a parliamentary mandate, for which reason it has considered the expulsion from the Senate of the persons concerned to be unlawful and called on the authorities to remedy this situation,

Noting that, in his letter of 3 March 2004, the Senate President reiterates his earlier arguments, namely that pursuant to the political arrangements agreed upon in November 1998, all Senators (except for the representatives of the King) are selected and proposed by the political parties on the basis of the quota of seats they obtained in the National Assembly; as a result the political parties "*have willy-nilly rights to change their Senators as needed*"; *noting* that the political arrangement found expression in the amended Article 157 of the Constitution, which provides that for the Senate's first legislative term" ... *other Senators shall be appointed by the King ... from among the members of the political parties having seats in the National Assembly*",

Considering that while the Senate President has consistently recommended that the former Senators bring their case before a court of law as the only means of resolving the issue, the Senators concerned themselves have consistently stated that doing so would be far too risky given the lack of independence of the Cambodian judiciary and the many cases of killings and murder which have remained unpunished; moreover, they were unable to find a lawyer willing to defend them,

Considering in this respect that, in its Concluding Observations on Cambodia's initial State report under the International Covenant on Civil and Political Rights (CCPR/C/79/Add.108, 27 July 1999), the Human Rights Committee remained concerned that the justice system remained weak owing, inter alia, to the "*susceptibility of judges to ... bribery and political pressure*"; furthermore, the Committee was alarmed at the failure of the Cambodian authorities to investigate fully allegations of killings by the security forces, other disappearances and deaths in custody; *considering further* that in his latest report on the situation of human rights in Cambodia (December 2003, E/CN.4/2004/105), the Special Representative of the United Nations Secretary-General for Human Rights in Cambodia remained concerned at the lack of independence of the Cambodian judiciary and at problems with judges "*who are too ready to accommodate and too weak to withstand outside interference*", and at the many problems associated with impunity,

Considering that the Senate has a Committee for Human Rights and Complaints which is competent to receive complaints from individuals and others, to examine them and to mediate in their resolution by working in cooperation with various institutions or competent authorities; *recalling* that Senator Chhang submitted a complaint to that Committee in connection with his expulsion without ever having received a reply; *considering* that, according to the Senate President, that Committee has no competence in this matter because of Article 128 of the Constitution, which stipulates that "*the judicial power shall cover all lawsuits including the administrative ones*",

Recalling that, following the expulsion of the Senators concerned, the Senate modified its Standing Orders in order to make clear provision for the revocation of the parliamentary mandate; following an expert mission in January 2003 under the IPU's technical cooperation programme, the draft Standing Orders were revised and at present do not authorise political parties to revoke the parliamentary mandate of their members; *considering*, however, that owing to the political stalemate in Cambodia following the July 2003 elections, they have not as yet been adopted,

Bearing in mind Article 51 of the Constitution of Cambodia, which stipulates that *"The Kingdom of Cambodia adopts a policy of liberal democracy and pluralism"*, and Article 41 of the Constitution, which guarantees Khmer citizens freedom of expression, press, publication, assembly and association,

1. *Thanks* the President of the Senate for his constant cooperation;
2. *Reaffirms* that the revocation of a parliamentarian's mandate is a serious measure which irrevocably deprives such a member of the possibility of carrying out the mandate entrusted to him/her, and that it must therefore be taken in strict compliance with the law and only on serious grounds;
3. *Notes* that Article 157 of the Constitution determines the composition of the Senate during its first legislative term and contains no provision concerning the revocation of the parliamentary mandate; *considers* that an interpretation to the effect that this Article would grant political parties complete freedom to change Senators would hardly be compatible with a policy of liberal democracy and pluralism, as enshrined in the Constitution, besides which it would leave the door wide open to arbitrariness;
4. *Remains deeply concerned* that the persons concerned were in fact expelled from their party and Parliament on account of the statements they made in the Senate during the debate on the Criminal Procedure Code bill and that, consequently, they lost their parliamentary mandate because they exercised it in the spirit of a liberal democracy, making use of their freedom of speech;
5. *Fails to understand* why the Senate Commission on Human Rights and Reception of Complaints is incompetent to examine the issue in question since it is competent to examine and mediate in complaints referred to it; *considers*, on the contrary, that the Senate Committee is ideally placed to mediate in this case and contribute to finding a solution that would provide redress, if only moral, to the persons concerned; *would appreciate* receiving the observations of the parliamentary authorities in this respect;
6. *Notes* that the draft Standing Orders have not as yet been adopted and *would appreciate* being kept informed of any developments in this respect;
7. *Requests* the Secretary General to convey this decision to the President of the Senate, to the Chairman of the Senate Committee on Human Rights and Reception of Complaints, to the sources and to competent international human rights bodies;
8. *Requests* the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the

111th Assembly (September-October 2004), in the hope that a satisfactory settlement will have been found.

CASE N° CO/01 - PEDRO NEL JIMÉNEZ OBANDO) COLOMBIA
CASE N° CO/02 - LEONARDO POSADA PEDRAZA)
CASE N° CO/03 - OCTAVIO VARGAS CUÉLLAR)
CASE N° CO/04 - PEDRO LUIS VALENCIA GIRALDO)
CASE N° CO/06 - BERNARDO JARAMILLO OSSA)
CASE N° CO/08 - MANUEL CEPEDA VARGAS)
CASE N° CO/139 - OCTAVIO SARMIENTO BOHÓRQUEZ)

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Mr. Pedro Nel Jiménez Obando, Mr. Leonardo Posada Pedraza, Mr. Octavio Vargas Cuéllar, Mr. Pedro Luis Valencia Giraldo, Mr. Bernardo Jaramillo Ossa, Mr. Manuel Cepeda Vargas and Mr. Octavio Sarmiento Bohórquez of Colombia, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Taking account of the letter from the Director of the Presidential Human Rights and International Humanitarian Law Programme, dated 5 January 2004, and of communications from the Office of the Prosecutor General dated 16 April 2004,

Also taking account of communications from the sources dated 8 and 9 January, 18 February and 19 and 22 March 2004,

Recalling that the MPs concerned, members of the Unión Patriótica, were all assassinated between 1986 and 2001; only in the case of Senator Cepeda Vargas have the murderers, two military officers, been identified and sentenced in 1999 to 43 years' imprisonment, while Carlos Castaño, accused of masterminding the murder, was acquitted at first and second instance; in 2001, his book "My Confession", in which he acknowledged that he had ordered and masterminded Senator Cepeda's assassination, was submitted to the Supreme Court as evidence of his guilt; however, the Court has so far not taken this evidence into consideration,

Recalling also its concerns at the death threats against Mr. Cepeda's son Iván, which for several years forced him into exile, and the disappearance of the wife and one of the daughters of the main witness in this case; taking account in this regard of the information provided by the Director of the Presidential Human Rights and Humanitarian Law Programme, on 5 January 2004, that the Human Rights Unit of the Attorney General's office had examined this case, which was awaiting judgment,

*Recalling that, in the case of Mr. Jaramillo Ossa, Carlos Castaño and his brother Fidel were identified as the murderers and sentenced *in absentia* in November 2001,*

Recalling further that, in the context of the amicable settlement procedure before the Inter-American Commission on Human Rights (IACtHR) regarding the persecution and extermination of the Unión Patriótica and its members, a Joint Commission was set up in 1999 composed of all interested parties to "define a working method to elucidate the facts of the case and contribute to the realisation of the right to truth and justice and, if appropriate, reparations", and that recently several subcommittees were set up for the second stage of the process; recalling in this respect that, according to the information

gathered by its on-site mission (March/April 2003), there was insufficient funding for the bodies set up within the amicable settlement procedure; according to the Director of the Presidential Human Rights and International Humanitarian Law Programme, a draft budget had been prepared for 2004, “*with the amount to be decided in the light of the country’s financial situation*”,

Recalling that, following the Santa Fe de Ralito agreement of 15 July 2003 between the authorities and the paramilitaries, a bill on their demobilisation and alternative sanctions was submitted to the National Congress, the provisions of which have been widely criticised, including by the Prosecutor General’s Office, for failing to take adequate account of questions of justice and reparation; members of the parliamentary committee studying the bill have reportedly publicly stated that they are being pressured by Carlos Castaño to adopt it as it stands; *considering* in this respect that, according to the Director of the Presidential Human Rights and International Humanitarian Law Programme, the Congress and the Government were conducting the debate on the paramilitary (self-defence) groups publicly and no concession had been made to these armed organisations, as evidenced by the increased number of operational successes recorded by the law enforcement agencies,

Noting that, according to a member of the Colombian delegation at a hearing held on the occasion of the 110th IPU Assembly (April 2004), the bill will be debated in the Senate in the week of 26-30 April if so agreed in the First Committee on Legal and Constitutional Affairs of the Senate; meanwhile, negotiations continue between the Government and the paramilitary groups, which reportedly insist on further limitations to possible criminal proceedings against their members,

Bearing in mind the Chairperson’s statement on the “Situation of human rights in Colombia” adopted by the United Nations Commission on Human Rights at its 59th session (OHCHR/STM/CHR/03/2) whereby the Government is urged to take further necessary measures to end impunity, recalling “*the importance of bringing the full force of the law to bear on those responsible for the crimes committed by bringing them to trial in civilian courts, in accordance with international standards of fair trial, and emphasising that any solution to the conflict must not lead to impunity for such crimes*”

1. *Thanks* the Office of the Prosecutor General and the Director of the Presidential Human Rights and International Humanitarian Law Programme for the information provided and their cooperation;
2. *Is deeply concerned* that, in its present form, the draft bill before Congress on the demobilisation of the paramilitary does not ensure the right to truth, justice and reparation of victims of human rights violations, and would thus entail impunity for perpetrators of gross human rights violations, including paramilitary leader Carlos Castaño;
3. *Expresses concern* that the Congress has so far not been represented in the ongoing negotiations with the paramilitaries, thereby preventing it from intervening at an early stage in the negotiations and voicing any concerns regarding the underlying spirit of the current draft bill and the demands of the paramilitary groups for wider impunity provisions;
4. *Considers* that Parliament is uniquely positioned to provide a basis for combating impunity, in particular by establishing an effective legal framework for this purpose; *strongly urges* Congress, in particular its Human Rights Committees, to make the draft bill compatible with Colombia’s national and international human rights obligations, and to monitor the ongoing negotiations to this end;
5. *Reaffirms* that any legislation to fight impunity is bound to fail if no concrete action is taken to bring the perpetrators of human rights violations to trial; *urges* therefore the competent authorities to ensure that Carlos Castaño stands trial for his involvement in the murders of Senator Cepeda and Mr. Jaramillo Ossa;

6. *Is convinced* that the mechanisms set up within the amicable settlement procedure in the *Unión Patriótica* case are crucial in advancing recognition of the rights of the victims of human rights violations and in lending fresh impetus to the investigation in the cases of Octavio Vargas, Pedro Luis Valencia, Pedro Nel Jiménez and Leonardo Posada, and therefore warrant all the necessary financial and political support; *wishes* to be kept informed of any progress made towards these objectives;
 7. *Notes with satisfaction* that a case has been registered regarding the disappearance of the wife and daughter of the main witness in the Cepeda case; *would appreciate* receiving more particulars in this respect;
 8. *Deeply regrets* the absence of any information about the investigation into the murder of Octavio Sarmiento; *fears* that this may show a lack of resolve on the part of the authorities to act on the ample evidence which would have enabled the early identification and prosecution of the culprits, and *reiterates its wish* to ascertain the stage reached in the relevant investigations;
 9. *Requests* the Secretary General to convey this resolution to the competent authorities and to the sources;
 10. *Requests* the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).
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CASE N° CO/09 - HERNÁN MOTTA MOTTA - COLOMBIA

***Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)***

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Senator Hernán Motta Motta of Colombia, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Recalling that Mr. Motta, a member of the *Unión Patriótica*, had been receiving death threats which forced him into exile in October 1997; his name was reportedly on a hit list drawn up by the paramilitary group led by Carlos Castaño Gil, who publicly admitted in March 2000, on a private television channel, that he had personally decided who was to be executed by his group,

Recalling also that, on 17 September 2002, the Director of the Presidential Human Rights and International Humanitarian Law Programme reported that the Anti-Abduction Unit 242 of the Regional Directorate of Public Prosecutions of Bogotá was conducting preliminary investigations in the case, registered as N° 444247,

Taking account of a communication from the Office of the Prosecutor General, dated 20 April 2004, and of letters of 16 October 2003 and 5 January 2004 from the Presidential Human Rights and International Humanitarian Law Programme, forwarding a report from the Attorney General's Office dated 6 October 2003, which stated that by order of 23 July 2001 a stay of proceedings had been declared in the case of the death threats against Mr. Motta,

Recalling that, as part of the search for an amicable settlement following the petition before the Inter-American Commission on Human Rights concerning the persecution of the *Unión Patriótica*, a joint commission was set up to help in the search for the truth and reparation for the victims; *considering* that, according to the Director of the Presidential Human Rights and Humanitarian Law Programme, regular meetings of the joint commission have taken place about this and that several sub-commissions were set up to look into the issues of truth, justice and protection,

Recalling also that, following the Santa Fe de Ralito agreement of 15 July 2003 between the authorities and the paramilitary, a bill on their demobilisation was submitted to the National Congress, the provisions of which have been widely criticised, including by the Prosecutor General's Office, for failing to take adequate account of questions of justice and reparation,

Noting that, according to a member of the Colombian delegation at the hearing held on the occasion of the 110th IPU Assembly (April 2004), the bill will be debated in the Senate in the week of 26-30 April 2004 if so agreed in the First Committee on Legal and Constitutional Affairs of the Senate; meanwhile, negotiations continue between the Government and the paramilitary groups, the latter reportedly insisting on further limitations to possible criminal proceedings against their members,

1. *Thanks* the Office of the Prosecutor General and the Director of the Presidential Human Rights and Humanitarian Law Programme for the information provided and for their cooperation;
2. *Notes* that a stay of the investigation into the death threats against Mr. Motta was ordered in June 2001; *wishes to ascertain* whether, in the light of the existing evidence suggesting that Carlos Castaño was behind the threats, resumption of the investigation could be ordered;
3. *Is convinced* that the mechanisms set up within the amicable settlement procedure in the *Unión Patriótica* case provide an additional avenue for addressing Mr. Motta's case; *wishes to ascertain* whether the procedure also includes the cases of *Unión Patriótica* members forced into exile;
4. *Is deeply concerned* that, in its present form, the draft bill before Congress on the demobilisation of the paramilitary does not ensure the right to truth, justice and reparation of victims of human rights violations and would prevent investigation of the strong leads suggesting that Carlos Castaño was behind the death threats;
5. *Expresses concern* that the Congress has so far not been represented in the ongoing negotiations with the paramilitaries, which thereby prevents it from intervening at an early stage in the negotiations and voicing any concerns regarding the underlying spirit of the current bill and the demands of the paramilitary groups for wider impunity provisions;
6. *Considers* that Parliament is uniquely positioned to provide the basis for combating impunity, in particular by establishing an effective legal framework for this purpose; *strongly urges* Congress, in particular its human rights committees, to show the necessary political will to make the bill compatible with Colombia's national and international human rights obligations, and to monitor the ongoing negotiations to this end;
7. *Requests* the Secretary General to convey this resolution to the competent authorities and to the source;
8. *Requests* the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).

CASE N° CO/121 - PIEDAD CÓRDOBA - COLOMBIA

***Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)***

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Ms. Piedad Córdoba of Colombia, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Recalling that Ms. Córdoba was kidnapped on 21 May 1999 by the "Autodefensas Unidas de Colombia" (AUC) and held by them until 4 June 1999; upon her release, she had to go into exile owing to death threats, reportedly also made by the AUC; she returned to Colombia and has since been the target of attempts on her life, in December 2002 and in January 2003,

Recalling that an investigation was instituted into the kidnapping; the preventive detention of AUC leader Carlos Castaño Gil was ordered, and the investigation against him was closed pending the court's determination of whether the case against him could proceed to the trial stage; another person, Iván Roberto Duque Gaviria, was declared guilty in absentia,

Recalling that, at the time of the Secretary General's on-site mission to Bogotá (31 March and 1 April 2003), a new plan to kill Ms. Córdoba was revealed; *recalling* also that Ms. Córdoba has reportedly been receiving death threats,

Taking account of the letters of 16 October 2003 and 5 January 2004 from the Director of the Presidential Human Rights and Humanitarian Law Programme, including details of the elaborate security arrangements in place for Ms. Córdoba in Bogotá and Medellín; *noting* that a review has taken place of these arrangement after the latest attempt on Ms. Córdoba's life, as a result of which the vehicle assigned to her has been replaced and two more detectives have been assigned to her; moreover, a regular consultation process has been set up with a view to monitoring and evaluating the implementation of security measures,

Considering that the Attorney General's Office, in its report of 6 October 2003, reported that the investigation into the attempt on Ms. Córdoba's life of 20 January 2003 was at the evidence-taking stage and that four persons already in detention were implicated; on 18 September 2003, a preliminary investigation found them to be involved in this crime; the matter was pending the court's determination of whether it could proceed to trial on the basis of the legal merits,

Considering also that, according to the Prosecutor General's report of 16 April 2004, the disciplinary investigation against the Director of the Security Department (DAS) was shelved; the Director had declared that the incident of 20 January 2003 was an attempted car theft and not an attempt on Ms. Córdoba's life; it also stated that the Antioquia authorities refused the request for a bullet-proof car for Ms. Córdoba when travelling in that Department on the ground that no such vehicle was available,

Recalling that, following the Santa Fe de Ralito agreement of 15 July 2003 between the authorities and the paramilitary, a bill on their demobilisation was submitted to the National Congress, the provisions of which have been widely criticised, including by the Prosecutor General's Office, for failing to take adequate account of questions of justice and reparation; *noting* that, according to a member of the Colombian delegation at a hearing held on the occasion of the 110th IPU Assembly (April 2004), the bill will be debated in the Senate in the week of 26-30 April 2004 if so agreed in the First Committee on

Legal and Constitutional Affairs of the Senate; meanwhile, negotiations continue between the Government and the paramilitary groups, the latter reportedly insisting on further limitations to possible criminal proceedings against their members,

1. *Thanks* the Office of the Prosecutor General and the Director of the Presidential Human Rights and Humanitarian Law Programme for the information provided and for their cooperation;
 2. *Wishes to ascertain* whether the case of the attempt on Ms. Córdoba's life perpetrated in January 2003 has meanwhile passed on to the trial stage; *also wishes to ascertain* whether the court has meanwhile determined whether the case against Carlos Castaño for Ms. Córdoba's kidnapping in May 1999 could pass on to the trial stage;
 3. *Is deeply concerned* that, in its present form, the draft bill before Congress on the demobilisation of the paramilitary does not ensure the right to truth, justice and reparation of victims of human rights violations and would entail impunity for Carlos Castaño, sought for the kidnapping of Ms. Córdoba;
 4. *Expresses concern* that the Congress has so far not been represented in the ongoing negotiations with the paramilitaries, which thereby prevents it from intervening at an early stage in the negotiations and voicing any concerns regarding the underlying spirit of the current bill and the demands of the paramilitary groups for wider impunity provisions;
 5. *Considers* that Parliament is uniquely positioned to provide the basis for combating impunity, in particular by establishing an effective legal framework for this purpose; *strongly urges* Congress, in particular its human rights committees, to show the necessary political will to make the bill compatible with Colombia's national and international human rights obligations and to monitor the ongoing negotiations to this end;
 6. *Reaffirms* that any legislation to fight impunity is bound to fail if no concrete action is taken to bring the perpetrators of human rights violations to trial; *urges* the competent authorities to implement the preventive detention order for Carlos Castaño;
 7. *Reaffirms further* that it is in the interest of Parliament to ensure that its members can fulfil their parliamentary mandate freely without intimidation; and *calls on* Congress to monitor the investigations in this case and the need for any additional protection measures for Ms. Córdoba;
 8. *Requests* the Secretary General to convey this resolution to the competent authorities and to the source;
 9. *Requests* the Committee to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).
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CASE N° CO/122 - OSCAR LIZCANO) COLOMBIA
CASE N° CO/132 - J. EDUARDO GECHEN TURBAY)
CASE N° CO/133 - LUIS ELADIO PÉREZ BONILLA)
CASE N° CO/134 - ORLANDO BELTRÁN CUÉLLAR)
CASE N° CO/135 - GLORIA POLANCO DE LOZADA)
CASE N° CO/136 - C. GONZÁLEZ DE PERDOMO)

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Mr. Oscar Lizcano, Mr. Eduardo Gechen Turbay, Mr. Luis Eladio Pérez Bonilla, Mr. Orlando Beltrán Cuéllar, Ms. Gloria Polanco de Lozada and Ms. Consuelo González de Perdomo, all members of the Colombian Congress, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Taking account of an information note from the Attorney General's Office, dated 6 October 2003, forwarded by the Office of the Presidential Human Rights and Humanitarian Law Programme, and of a letter from the Director of the Programme dated 5 January 2004,

Recalling that all six members of the Colombian Congress were kidnapped by the Revolutionary Armed Forces of Colombia (FARC) between 5 August 2000 and 23 February 2002 and remain in their hands to date; the health of Mr. Lizcano and Mr. Pérez has seriously deteriorated in captivity and there is no conclusive evidence that the others are still alive,

Recalling that in December 2002 President Uribe asked the National Reconciliation Commission to assist in constituting a "rapprochement committee" in order to reduce mutual distrust and to discuss and determine the framework for the humanitarian agreement; in January 2003, that committee was officially established; however, according to the information gathered by the IPU's on-site mission in March/April 2003, FARC rejected the committee as its mandate was only "rapprochement" and not negotiation; *noting* that, according to a member of the Colombian delegation at a hearing held on the occasion of the 110th IPU Assembly (April 2004), no official efforts were being made to revive the process,

Noting that the information provided by the Director of the Presidential Human Rights and Humanitarian Law Programme, regarding the conditions of a humanitarian agreement, confirms the information gathered by the IPU's mission, namely that: (a) the release of FARC members detained legally is conditional on the release of all those being held hostage by that group; (b) the persons whom they wish to see released should not return to its ranks, but should be taken by a friendly country; (c) there is no reason why parts of the country should be demilitarised and left without the protection of the law enforcement agencies; and (d) the Government has called on the United Nations and the Church to participate in such a process,

Considering that, while no formal negotiations or contacts between the Government, the United Nations or the Church have been effected with a view to reaching a humanitarian agreement, the Government concluded the Santa Fe de Ralito agreement of 15 July 2003 with the main paramilitary groups and introduced a wide-ranging bill in Congress on their demobilisation,

Recalling that Peace Committees and Human Rights Committees exist in both Chambers of the National Congress and that, in May 2003, the House of Representatives organised a Seminar on the conditions of a humanitarian agreement and on children in war; *considering* that neither Congress nor any of its Peace Committees has since taken any further initiative to resolve the hostage crisis; *noting* in this connection that, in his communication dated 5 April 2004, the President of the Senate reported that he would forward to the President of the Senate Human Rights Committee and to the Secretary General of the Senate the IPU Secretary General's letter informing him - the Senate President - of the IPU's concerns in this case,

Considering the following information contained in the Attorney General's Office note of 6 October 2003 concerning the stage reached in the investigations and proceedings of the six kidnapping cases:

- Mr. Lizcano's case is at the investigation stage; Nelson Enrique Gañán Bueno, Luis Horacio Medina López and Rosa Omaira Chaura Uchima are charged with kidnapping with extortion and insurgency;

- Mr. Gechen's case is at a preliminary stage; on 7 February 2003 Robinson Matiz Cubides was remanded in custody without the possibility of pre-trial release for the punishable offences of skyjacking and kidnapping;
- In the case of Mr. Eladio Pérez's case, the FARC leadership and seven others were charged in absentia and a warrant for their arrest had been issued on charges of kidnapping with extortion and insurgency; on 29 January 2003, José Albeiro Ambito Salazar was indicted;
- On 2 December 2002, Mr. Geovanny Escobar Polanía was ordered to appear in court in connection with Mr. Beltrán's kidnapping; on 2 and 5 May 2002, the FARC leadership and Jair Bello Mora were charged in absentia; moreover, on 16 September 2003, information was requested on the capture of "Coloreto" (alias);
- The investigation found that Sandy Rocío Villalba Mosquera and 14 others were involved in the kidnapping of Ms. Polanco de Lozada; the court is currently considering the evidence,

Considering that the United Nations High Commissioner for Human Rights, in his latest report on the human rights situation in Colombia (doc. E.CN.4/2004/13), urged as follows: "The High Commissioner recommends that the Government, the illegal armed groups and representative sectors of civil society spare no effort to establish contacts for dialogue and negotiation in order to resolve the internal armed conflict and achieve a lasting peace. The dialogues and negotiations should from the outset take human rights and international humanitarian law into account. The High Commissioner exhorts the Government and Congress to fully honour the fundamental principles of truth, justice and reparation for victims, in all dialogues and negotiations with illegal armed groups.",

1. *Thanks* the President of the Colombian Congress for his communication; *deeply regrets*, however, that he has not shared with it any information or observations regarding the Council's serious concerns in this case;
2. *Thanks* the Director of the Presidential Human Rights and International Humanitarian Law Programme for the elaborate information he provided;
3. *Remains deeply concerned* that the six parliamentarians in question have been in FARC hands for up to more than three and a half years, and that no indication has been received as to their fate;
4. *Is dismayed* at the absence of any progress towards the negotiation of a humanitarian agreement permitting the release of all those held hostage by FARC, in sharp contrast to the advanced negotiations with the paramilitary groups;
5. *Urges* the Colombian authorities for this purpose to embark with the same determination on the path of negotiations with FARC and, as a first step, to do their utmost to arrange for the International Committee of the Red Cross to obtain access to the parliamentarians concerned in order to provide them with the necessary medical assistance;
6. *Reaffirms* that the Congress of Colombia can and should play an essential role in securing a national consensus on the need for a prompt humanitarian agreement, in monitoring the negotiations taking place to that effect, and in adopting such laws as may be necessary to permit its implementation; *calls on* the Congress, together with both its Human Rights and its Peace Committees, to make use of its prerogatives as a body representing the people and to take initiatives, as it has done in the past, to do everything possible to contribute to the peace process;

7. *Once again urges FARC to respect international humanitarian law, to release the civilian hostages immediately and unconditionally, and to refrain from the unlawful and unacceptable practice of kidnapping;*
 8. *Would appreciate being kept informed of further developments in bringing the presumed kidnappers to justice;*
 9. *Requests the Secretary General to convey this resolution to the competent authorities and to the sources;*
 10. *Requests the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).*
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CASE N° CO/138 - GUSTAVO PETRO URREGO - COLOMBIA

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Mr. Gustavo Petro Urrego, a member of the Colombian House of Representatives, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

*Taking account of a communication from the Procurator General's Office (*Procuraduría*) dated 16 April 2004, and of a communication from the Director of the Presidential Human Rights and International Humanitarian Law Programme, dated 5 January 2004,*

Further taking account of communications from the sources, dated 13 October and 18 December 2003 and 15 April 2004,

Recalling that, according to the source, as a result of his having denounced in Parliament on several occasions in 2000 and 2001 corruption scandals implicating senior officials, Mr. Gustavo Petro Urrego appeared regularly on "hit lists" run by paramilitary groups; in June 2002, Mr. Petro was informed that a radio conversation had been intercepted between a high-profile official of the Attorney General's Office and paramilitary leader Carlos Castaño which indicated that they were planning to have him assassinated by 20 July 2002; Mr. Petro immediately made that information public and lodged a complaint; having been seized of the matter, the Inter-American Commission on Human Rights (IACtHR) ordered the Colombian authorities to provide Mr. Petro with all necessary protection and to investigate the death threats,

Recalling also that, in early May 2003, Mr. Petro received information that a reward of over 300 million Colombian pesos had been offered for his assassination and that the paramilitary would carry out the operation,

*Considering that further threats were made against Mr. Petro in July 2003 by paramilitary groups and Carlos Castaño in connection with his criticism of the bill on alternative sanctions proposed by the Government, although an official of the Administrative Security Department (*Departamento Administrativo de Seguridad - DAS*) reportedly stated in an official document that Mr. Petro did not face any security problems; Mr. Petro was again the target of threats by paramilitaries in the course of 2003 and 2004 because of his criticism of the same bill; although these threats were posted on the websites of*

the United Self-Defence Forces of Colombia (AUC) and the paramilitary group *Bloque Central Bolívar*, the DAS reportedly informed Mr. Petro that he had provided no evidence of being threatened,

Considering also that, according to the authorities, Mr. Petro has been afforded the necessary security measures, including an armoured vehicle, and that, within the framework of the precautionary measures ordered by the IACR on 21 June 2002, a process of regular consultation and evaluation concerning the necessary action needed to ensure Mr. Petro's safety has been taking place,

Considering further that three disciplinary investigations are under way regarding the complaints made by Mr. Petro, two of which, conducted by the Human Rights Unit of the Procurator General's Office and by the National Directorate of Special Investigations, respectively, are at the preliminary stage and the third, conducted by the Procurator for Disciplinary Matters - Human Rights Unit, is at the stage of preliminary investigation of the complaint,

Taking account of information provided by the source on 15 April 2004, according to which Mr. Petro has been accused before the Supreme Court by the Attorney General of abuse of authority and of undue disclosure of secrets; the source affirms that the charges relate to Mr. Petro's disclosure of a document containing the names and telephone numbers of officers of the Attorney General's Office and members of the paramilitary and their possible links; according to the source, the main author of the document, Mr. Riaño Botina, an employee of the Technical Investigations Unit of the Attorney General's Office, was subsequently dismissed and fled the country as the only means of saving his life; several other employees of the Attorney General's Office have reportedly likewise been replaced in an effort to ensure impunity,

Considering that, according to the source, the Judge of the Penal Chamber of the Supreme Court is to rule shortly on whether or not proceedings should formally start against Mr. Petro; the source fears that Mr. Petro will not enjoy a fair trial as the Judge in charge was previously Attorney Designate before the Supreme Court, therefore reporting to the very Attorney General whom Mr. Petro had been criticising,

Considering also that Mr. Petro formally presented to the Committee on Accusations of Congress reportedly well-documented accusations against the Attorney General of perjury and criminal offences allegedly committed in the exercise of his functions,

Bearing in mind that the United Nations High Commissioner for Human Rights, in his reports to the United Nations Commission on Human Rights of February 2003 and February 2004, urged the Attorney General, "*within his Office's Human Rights and International Humanitarian Law Unit, to establish a group specialising in the investigation of possible links between members of the security forces and paramilitary groups*" and called further on the President of the Republic "*to take all necessary steps to ensure that independently of any dialogue conducted between the Government and paramilitary groups, all links between public officials and members of such groups are severed...*",

1. *Is alarmed* that the authorities, instead of acting on the highly worrying information indicating possible links between the Attorney General's Office and paramilitary groups, may bring criminal proceedings against Mr. Petro; *wishes to ascertain* whether and, if so, with what outcome, such proceedings have been instituted;
2. *Is confident* that the Congress Committee on Accusations is looking into the accusations made by Mr. Petro; *wishes to ascertain* the stage reached in that examination;
3. *Believes* that the magnitude and seriousness of the alleged collusion of officials in the Attorney General's Office and the paramilitary, including Carlos Castaño, warrants the establishment of an independent inquiry commission to ensure that the allegations can be examined with the necessary diligence, independence, impartiality and thoroughness; *calls on* the Congress to set up such a commission;

4. *Is convinced* that such a step would also lend practical meaning to the reiterated recommendation made by the United Nations High Commissioner for Human Rights that a special unit be established to deal with such matters;
 5. *Urges* the competent authorities to investigate without delay the death threats against Mr. Petro, as their duty commands, and to ensure that such investigations are carried out quite independently and objectively;
 6. *Notes* the elaborate protection scheme with which Mr. Petro has been provided, as required under the precautionary measures ordered by the IACtHR; nevertheless *expresses its concern* at reports that, despite the publicly known threats against Mr. Petro from the paramilitary groups, the Administrative Department for Security (DAS) has repeatedly claimed ignorance of them;
 7. *Requests* the Secretary General to convey this resolution to the competent authorities, inviting them to inform it of any action they may have taken to implement its recommendations;
 8. *Requests* the Committee to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).
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**CASE N° EC/02 - JAIME RICAURTE HURTADO GONZÁLEZ) ECUADOR
CASE N° EC/03 - PABLO VICENTE TAPIA FARINANGO)**

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of the assassination of Mr. Jaime Ricaurte Hurtado González and Mr. Pablo Vicente Tapia Farinango, a member and substitute member of the National Congress of Ecuador, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Taking account of a letter from the President of the Standing Committee on International Affairs and National Defence of the National Congress, dated 5 January 2004, and of a letter from the Prosecutor General dated 26 March 2004,

Recalling that Mr. Hurtado, Mr. Tapia and Mr. Wellington, a legislative assistant, were shot dead on 17 February 1999 after leaving the morning plenary session of Parliament; the prosecution summed up its investigation in July 2002 and concluded that Mr. W. Aguirre and Mr. C. Ponce, who had both been sentenced in August 2000, along with Mr. S. Merino, for criminal association for their participation in the crime as accessories, were accountable as perpetrators and Mr. Merino as an accessory; the Special Inquiry Commission (CEI) set up by the Government to monitor the investigation strongly criticised those findings and, by means of a special judicial hearing provided for under the Criminal Procedure Code, submitted to the judge on 20 September 2002 the evidence it possessed to the effect that the summing-up was inaccurate, incoherent, incomplete and failed to take account of evidence suggesting the participation of a fourth person, Mr. Contreras, and the dubious role played by some police officers,

Considering that, on 8 October 2003, the President of the High Court of Quito, the judge in the case, declared the trial proceedings (*auto de llamamiento a juicio*) open against the accused

Mr. Aguirre, Mr. Ponce, Mr. Contreras, Mr. Martínez Arbeláez alias "Milanta" or "Skipper Germán Sánchez", and Mr. Gil Ayerve alias "Henry", as the presumed masterminds and perpetrators of the crime, and Mr. Merino as an accessory to the crime, and ordered their arrest and detention; he ordered a stay of proceedings against Mr. Ordóñez, Mr. Cevallos Gómez and Mr. Bravo Mera, alias "Victorino" and ordered the dismissal of proceedings for want of evidence in the case of 18 other accused persons, mainly police officers,

Considering further that, according to the Prosecutor General, the Judge granted on 30 October 2003 the appeals lodged by both Mr. Lenin Hurtado, the lawyer of the victims, and the lawyer of the defendants against the decision to open the trial proceedings; both appeals are pending before Justice Fernando Casares Carrera of the Sixth Chamber of the Supreme Court of Justice of Quito; moreover, the Prosecutor in the case rejected on 9 February 2004 a request for the reopening of the investigation, referred to her on 6 February on the ground that it would delay the trial and obstruct the course of justice,

Recalling that, on 21 February 2002, Mr. Marcelo Andocilla López, the CEI's adviser, was attacked after presenting its report *Crime and Silence* to Congress; according to the Prosecutor General, a preliminary investigation (N° 3998-2002-RF) was launched in the Office of the Pichincha District Prosecutor; *noting* in this respect that no further information has been provided on this matter and that the President of the Specialised Permanent Committee on International Affairs and National Defence of the National Congress, at his meeting with a Committee member on the occasion of the 110th Assembly, stated that he was unaware of the incident,

Recalling also that, although the previous Congress requested that, in accordance with past practice, pensions be granted to the families of the three victims, the Government does not yet seem to have taken any action in this respect,

1. *Thanks* the President of the Specialised Permanent Committee on International Affairs and National Defence of the National Congress for the information he provided and his cooperation;
2. *Also thanks* the Prosecutor General for her constant cooperation;
3. *Notes* that the judge in the case issued the decision required for the case to pass on to the trial stage, and that appeals against that decision are pending;
4. *Earnestly hopes* that the judge hearing the appeals will give a decision as early as possible in order that the case, which has been pending now for more than four years, may indeed pass on to the trial stage; *calls on* Parliament to follow the proceedings closely;
5. *Insistently reiterates* its wish to receive information on progress made in the investigation into the attack on the special adviser to the Special Enquiry Commission, Mr. Marcelo Andocilla López, perpetrated on 21 February 2002;
6. *Also reiterates its wish* be informed as to whether the Government has in the meantime granted pensions to the families of Mr. Hurtado, Mr. Tapia and Mr. Wellington;
7. *Calls on* the competent authorities to continue supporting the Special Inquiry Commission, *inter alia* by providing the necessary financial means, until completion of the judicial proceedings to ensure that it can continue providing its input, which has been crucial throughout the proceedings;
8. *Requests* the Secretary General to convey this decision to the competent authorities, inviting them to provide the requested information;

9. Requests the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its forthcoming session, to be held on the occasion of the 111th Assembly (September-October 2004).

ERITREA

CASE N° ERI/01 - OGBE ABRAHA	CASE N° ERI/07 - GERMANO NATI
CASE N° ERI/02 - ASTER FISSEHATSION	CASE N° ERI/08 - ESTIFANOS SEYOUM
CASE N° ERI/03 - GEBREGZIABEHER	BERHANE CASE N° ERI/09 - MAHMOUD AHMED SHERIFFO
CASE N° ERI/04 - BERAKI GEBRESELASSIE	CASE N° ERI/10 - PETROS SOLOMON
CASE N° ERI/05 - HAMAD HAMID HAMAD	CASE N° ERI/11 - HAILE WOLDETENSAE
CASE N° ERI/06 - SALEH KEKIYA	

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of the above-mentioned parliamentarians of Eritrea, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution it adopted at its 173rd session (October 2003),

Taking account of the letter dated 9 April 2004 from the Ambassador of the State of Eritrea to the European Union, Belgium, Luxembourg and Spain, Mr. Andebrhan Weldegiorgis; *taking also account* of the information provided by the source on 5 April 2004,

Recalling that the former MPs in question were arrested on 18 September 2001, after having published, together with others, an open letter in May 2001 calling for democratic reform; they have since been held incommunicado without having been brought before a judge and without any charge having been laid against them; whereas the authorities claim that the Government has reliable evidence that the persons concerned perpetrated grave acts "*against the security and sovereignty of the State at a critical moment when its survival was threatened by a brutal aggression*", the source affirms that the allegations of treason have never been clarified or substantiated; it specified in this respect that it was reportedly claimed that, during major military setbacks in May 2001, some of the MPs concerned, who were not named, had requested the international peace talks facilitators (the United States and Algeria) to convey an offer to the Ethiopian Government to remove the President if Ethiopia would halt its offensive; however, the peace talks facilitators have categorically denied that any such offer was ever made,

Recalling that, according to the authorities and as stated in Ambassador Weldegiorgis's letter of 9 April, the extreme sensitivity of aspects of this case, "*arising from the implication of foreign powers in a plot to oust the President of the State, could have external ramifications and a negative impact on the peace process*" if publicly exposed during trial proceedings; the former MPs concerned could therefore be brought to trial once the peace process has been completed; *noting* in this respect that the peace process seems to be far from completion, owing mainly to the obstacles encountered in the border demarcation process, as referred to by the United Nations Security Council in its statement of 17 July 2003 and by the United Nations Secretary-General in his latest report on Ethiopia and Eritrea of September 2003,

Recalling further that, while the authorities have repeatedly stated that the former MPs concerned are held in humane conditions and receive the medical care they need, the source fears that

they are at risk of ill-treatment since they are held incommunicado at an unknown location; moreover, there are unconfirmed reports that Mr. Abraha may have died,

Considering that, at its 33rd session (May 2003), the African Commission on Human and Peoples' Rights, established under the African Charter on Human and Peoples' Rights (ACHPR), declared admissible a complaint concerning the situation of the former MPs concerned and, at its 34th session (November 2003), found the State of Eritrea in breach of Articles 2 (entitlement without discrimination to the enjoyment of human rights enshrined in the Charter), 6(right to liberty and security of person), 7(1) (right to fair trial) and 9(2) (right to freedom of expression) of the ACHPR; in reaching its conclusions, the Commission noted that it had not received any information or substantiation from the Respondent State demonstrating that the 11 persons were being held in appropriate detention facilities and that they had been produced before courts of law; moreover, the facts as presented left the African Commission in no doubt that the Respondent State had indeed restricted the 11 persons' right to free expression (a right which cannot be derogated from under the African Charter); the Commission urged the State of Eritrea to order the immediate release of the 11 detainees and recommended that the State of Eritrea compensate them,

Recalling that, in response to its request to carry out an on-site mission, the authorities replied that "such a mission would be considered an interference in internal affairs",

Bearing in mind that the Constitution of Eritrea, in its Articles 15, 17 and 19, guarantees the right to liberty and to freedom from arbitrary arrest, the right for any detained person to be brought before a court of law within 48 hours of arrest and the right to freedom of expression, being rights also enshrined in the International Covenant on Civil and Political Rights, and in the African Charter on Human and Peoples' Rights, to both which Eritrea is a party,

1. *Thanks* the Ambassador of the State of Eritrea to the European Union, Belgium, Luxembourg and Spain for the information and clarifications he provided;
 2. *Takes note* of the decision given in November 2003 in this case by the African Commission on Human and Peoples' Rights, ruling that the human rights of the former MPs concerned have been violated; *deeply regrets* that the authorities have so far not heeded the Commission's decision and continue to detain them in disregard of their obligations not only under the Constitution of Eritrea, but also under the African Charter on Human and Peoples' Rights and the ICCPR;
 3. *Affirms* that the peace process under way can in no way justify such violation of human rights, which on the contrary can only harm that process;
 4. *Urges* therefore the authorities to heed the decision of the African Commission on Human and Peoples' Rights and to release the former MPs concerned without delay;
 5. *Reiterates* its decision to carry out an on-site mission to gather from the competent authorities and the persons concerned as much information as possible on this case, and *stresses* in this respect that it is a well-established doctrine that human rights matters are of international concern and that ensuring their respect is a duty incumbent upon the international community;
 6. *Requests* the Secretary General to contact the authorities again to seek their agreement to an on-site mission to be carried out as early as possible;
 7. *Requests* the Committee to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).
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CASE N° HOND/02 - MIGUEL ANGEL PAVÓN SALAZAR - HONDURAS

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Mr. Miguel Angel Pavón Salazar of Honduras, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Taking account of a communication from the National Commissioner on Human Rights, dated 5 April 2004, and of a communication from the Prosecutor General dated 9 January 2004,

Recalling that the investigation into Mr. Pavón's murder led to the identification of Mr. Rosales and Mr. Quiñones as presumed culprits; while Mr. Quiñones lost his life in an accident during Hurricane Mitch, an international arrest warrant led to the arrest of Mr. Rosales in Florida on 4 March 2003 and his extradition on 1 August 2003 to Honduras, where he was interrogated and handed over to the Sampedrano Penal Centre; after six days of inquiry, a detention order was issued and on 3 September 2003 a charge of murder (Article 117 of the Penal Code) was formally brought against him; trial proceedings started on 25 September 2003,

Considering that, according to the information provided by the National Commissioner on Human Rights, the Court acquitted Mr. Rosales on 22 March 2004, reportedly despite compelling evidence of his involvement in the murder; an appeal is pending before the Sectional Appeals Court of San Pedro Sula,

1. *Thanks* the National Commissioner and the Prosecutor General for the information provided;
 2. *Notes* that the Court has returned a verdict acquitting Mr. Rosales;
 3. *Expresses concern* that the judgment may have failed to take account of important evidence;
 4. *Notes* that an appeal is pending; *trusts* that full justice will be dispensed shortly; *would greatly appreciate* being kept informed of progress in the appeal proceedings;
 5. *Requests* the Secretary General to bring this resolution to the attention of the National Congress, the Office of the National Commissioner on Human Rights, and the Prosecutor General;
 6. *Request* the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).
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CASE N° IDS/13 - TENGKU NASHIRUDDIN DAUD - INDONESIA

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Mr. Tengku Nashiruddin Daud of Indonesia, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Taking account of the information provided by the Indonesian delegation at the hearing held on the occasion of the 110th Assembly (April 2004),

Recalling that Mr. Daud disappeared on 24 January 2000 and was found dead the following day, his body showing signs of torture; the source believes that Mr. Daud's murder is linked to his outspoken stance against the military and their activities in Aceh; the police claim that he was killed by members of the Free Aceh Movement (GAM) and rely in this respect on a statement made by Ibrahim AMD, a (former) suspect in the Jakarta Stock Exchange bombing; according to information supplied in June 2002 by the Attorney General to the United Nations Special Rapporteur on the Independence of the Judiciary, a suspect was found and hospitalised; *noting* that the police have affirmed that one of the presumed suspects was shot dead and the others have escaped to Malaysia,

Recalling also that, on 11 December 2001, the Chief of the National Police informed Parliament about the investigation, which he undertook to make more effective; on 4 July 2002 and 16 January 2003, the Chairperson of the Sub-Committee on Law and Human Rights of the House of Representatives invited him to provide information about the stage reached in the investigation; on the occasion of the 108th IPU Conference (March 2003) members of the Indonesian delegation stated that Parliament was monitoring the case but provided no details in that respect,

Considering that by Decree N° 79/PIMP/III/2003-2004 dated 12 April 2004, the Speaker of the House of Representatives decided to assign to the "House Monitoring Team to observe the conduct of the Integrated Operation in the Province of Nanggroe Aceh Darussalam and to monitor prevailing issues in Aceh" the additional task of monitoring the handling of the case and the investigation into the murder of Tengku Nashiruddin Daud; *noting* also that, according to the delegation, owing to the elections, the Team has as yet been unable to accomplish substantial work, but has contacted the Attorney General and the police authorities,

1. *Thanks* the delegation for the information provided;
2. *Notes with satisfaction* that Parliament has entrusted a parliamentary body with monitoring the investigation into the murder of Tengku Nashiruddin Daud;
3. *Trusts* that its work will contribute to progress in the investigation and *hopes* that it will, in the near future, be able to provide answers to the questions it has raised, namely
 - (i) the circumstances in which Ibrahim AMD testified that GAM rebels had abducted and killed Tengku Nashiruddin Daud, and the legal status of Ibrahim AMD with respect to the investigation in this case, in particular whether he remains at the disposal of the investigating authorities for further questioning;
 - (ii) the outcome of the efforts to ascertain the whereabouts of key witness Abu Bakar Daud and the testimony he gave to the police;

- (iii) whether the police contemplate following a line of inquiry which would take account of Mr. Tengku Nashiruddin's role as vice-chairman of the parliamentary commission inquiring into human rights abuses while Aceh was a military operational zone, given that the lead it has so far followed has yielded no result and appears to be based mainly on a statement by a suspect in another criminal case;
4. *Looks forward* to receiving information as soon as possible on the work of the Monitoring Team and any results it may achieve;
5. *Recalls* that impunity is a serious violation of human rights, encourages the repetition of crime, and undermines the rule of law and the confidence of citizens in the capacity of the State to fulfil its duty to dispense justice; *stresses* that impunity in the case of a murder of an MP is particularly grave as it impairs the institution of Parliament as such, and stands as a threat to all other members of Parliament and the society they represent as a whole;
6. *Requests* the Secretary General to inform the parliamentary authorities and the sources accordingly;
7. *Requests* the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).

CASE N° MAL/15 - ANWAR IBRAHIM - MALAYSIA

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Mr. Anwar Ibrahim, a member of the House of Representatives of Malaysia at the time of the submission of the complaint, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Taking also into account communications from Mr. Ibrahim's wife and defence counsel and from other sources dated 18, 24 and 31 January and 3 and 4 February 2004,

Recalling that, having been dismissed from his post as Deputy Prime Minister and Finance Minister, Mr. Anwar Ibrahim was arrested on 20 September 1998, initially under the Internal Security Act without any charge, and subsequently prosecuted on charges of abuse of power and sodomy; he was found guilty on both counts and sentenced, in April 1999 and August 2000, respectively, to a total term of 15 years' imprisonment, which he is currently serving; on 10 July 2002, the Federal Court dismissed at final instance Mr. Anwar Ibrahim's appeal against the abuse of power charges; in August 2002 Anwar Ibrahim lodged an application with the Federal Court to review its own decision; the hearing of the application, originally set for 18 March 2003, was adjourned owing to a petition of the Attorney General for the application to be heard by a five-member instead of three-member panel; that request has been approved by the Chief Justice; however, no date has so far been set for a hearing, although the Chief Justice is said to have it announced for June 2003,

Recalling also that on 18 April 2003 the Appeal Court rejected Mr. Ibrahim's appeal in the sodomy case; he lodged an appeal with the Federal Court which is pending; *considering* that, in October

2003, he further lodged a petition in the Appeal Court for a review of its own decision on the ground of serious flaws in its judgment: it not only ignored an alibi notice given by Anwar Ibrahim but also failed to take account of the fact that he had been prevented from presenting a new alibi notice upon the amendment of the charges in June 1999; the charges had been amended upon presentation of Anwar Ibrahim's and his co-defendant's alibi notice proving that the building in which the offence had allegedly been committed was under construction at the time mentioned in the charges; the prosecution then changed the time frame from "sometime in May 1992" to "between the months of January to March 1993"; on 19 January 2004 the Appeal Court ruled that it was not competent to review its earlier decision,

Recalling further the serious concerns regarding the fairness of both trials, with particular reference to the attempts made by the prosecution to fabricate evidence against Anwar Ibrahim, the lack of credibility of the main witness, Azizan Abu Bakar, the lack of any medical evidence in the sodomy case, and the serious allegations about extraction of witness statements against Anwar Ibrahim,

Considering that, in May 2003, Anwar Ibrahim filed an application for bail under Section 57 of the Courts of Judicature Act pending the proceedings before the Federal Court; the application was rejected on 21 January 2004, reportedly without any reason being stated,

Considering also that, on 5 December 2003, Anwar Ibrahim's defence counsel denounced the provision of partly incorrect information by the parliamentary authorities in their report of September 2003 regarding Anwar Ibrahim's medical care: thus (a) he did not have "*for his exclusive use a large air-conditioned gymnasium which is equipped with the adequate equipment for him to carry out his prescribed physiotherapy exercises at his own convenience....*", but only "*one exercise bench and two dumbbells placed in a small air-conditioned living room adjacent to his small cell which is Spartan and certainly not air-conditioned ...*"; and (b) between the period of October 1999 to June 2003, he was taken from his cell to Kuala Lumpur Hospital on two occasions only and not, as the authorities affirmed, "*taken out of the prison for routine medical treatment*"; *considering also* that the parliamentary authorities have so far not replied to the Secretary General's letter of 9 December 2003 inviting them to comment on the matter,

Considering further that, given his increasing pain, Anwar Ibrahim's family requested in August 2003 that a medical examination be conducted by an orthopaedic neurosurgeon of their own choice; while this request has not so far been granted, Anwar Ibrahim was examined on 6 January 2003 by a government orthopaedic specialist, which examination revealed new medical complications; Anwar Ibrahim has since been taken for physiotherapy three times a week; he is dependent on the wheelchair and analgesics to alleviate his back pain; *recalling* that, in their report of September 2003, the authorities affirmed that Anwar Ibrahim was receiving appropriate medical treatment and that his health had significantly improved with conservative treatment,

Recalling that, contrary to the recommendation of the Malaysian National Human Rights Commission (SUHAKAM), Anwar Ibrahim has so far not been allowed to undergo surgery abroad; *considering* that in its communication dated 24 March 2004, SUHAKAM reiterated that its stand on the matter of medical treatment remained unchanged,

Recalling also that it has repeatedly requested the parliamentary authorities to provide information on how the Malaysian Parliament, as a guardian of human rights, ensures follow-up to the recommendations made by SUHAKAM and that, in their observations forwarded in August 2002, the parliamentary authorities undertook to provide these details,

1. *Regrets* that the parliamentary authorities have so far provided no clarification on the question of allegedly incorrect information provided by them in September 2003; and *invites* them to comment on the observations of the defence counsel regarding Anwar Ibrahim's medical treatment;
2. *Expresses deep concern* at Anwar Ibrahim's worsening state of health; *urges* the competent authorities to grant him bail without delay and to authorise him to undergo the medical

- treatment of his choosing, as recommended by the National Human Rights Commission; *firmly believes* that Parliament, as a guardian of human rights, should not hesitate to support the recommendations of the country's Human Rights Commission and make every effort to relay them favourably to the competent authorities; and *calls once again* on Parliament to do so;
3. *Notes with deep concern* that Mr. Ibrahim's alibi notice in the sodomy case has so far not been taken into consideration, the Appeal Court ruling that it was incompetent to review its earlier decision; *considers* that ignoring such an important item of evidence seriously infringes Mr. Ibrahim's right to defend himself;
 4. *Trusted* that the Federal Court will rule on Anwar Ibrahim's petitions in a manner fully respectful of the rights of the defence, which the Court itself considers to be "*sacrosanct*" and "*a principle so fundamental to our system of justice*", and *hopes* that the relevant hearings will take place soon;
 5. *Invites* the parliamentary authorities once again to provide information on how in general the Malaysian Parliament, as a guardian of human rights, ensures follow-up to the recommendations made by SUHAKAM;
 6. *Requests* the Secretary General to convey this resolution to the competent Malaysian authorities and to the sources;
 7. *Requests* the Committee on the Human Rights of parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).

CASE N° MON/01 - ZORIG SANJASUUREN – MONGOLIA

***Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)***

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Mr. Zorig Sanjasuuren of Mongolia, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Taking account of the information provided by the Mongolian delegation at the hearing held on the occasion of the 110th Assembly (Mexico City, April 2004),

Recalling that the investigation into Mr. Zorig's murder in October 1998 has been unavailing so far; while the authorities followed up the recommendation it made after the on-site mission of August 2001 to set up a single investigation group, they have not responded to its suggestion, despite initially receiving it favourably, to use foreign expertise in the field of criminology; instead, in December 2002 the Minister of Justice announced a reward of 500 million tugriks (approx. US\$ 500,000) to anyone providing information enabling the authorities to resolve the case,

Considering that a Mongolian national, Mr. Enkbat Damiran, was taken back to Mongolia from France, where he had been living since 1998, the year of Mr. Zorig's murder; there are reports that Mongolian intelligence officers kidnapped and forcibly returned him via Germany to Mongolia, where he was detained; Mr. Enkbat claimed that police officers had encouraged him to confess to Mr. Zorig's murder and said the police had tried to bribe him into admitting the crime and claiming that it had been ordered by Mr. Enkshaikan, the leader of the opposition Democratic Party; according to the information provided by the Deputy Speaker, Mr. Enkbat had been serving a long prison term for a murder he committed in Mongolia when he escaped from prison and went to France, where he sought asylum

under the false name of Bayaraa; he is now serving the remainder of his prison term and Parliament has been informed by different authorities that he may have been involved in Zorig's murder; the Deputy Speaker said he regretted that Enkhbat was making false statements when the police and secret service were doing their utmost to find Zorig's murderers,

Recalling that, in contrast to the previous Parliament, the present Parliament has not set up a parliamentary working group to follow the investigation; *considering* that, according to the Deputy Speaker, setting up such a working group would be unconstitutional because it would constitute interference with the work of the investigative authorities; it was, moreover, unnecessary as Parliament was receiving information from the National Security Council and was thus constantly informed of the investigation; *noting*, however, in this respect that the present Parliament did decide to set up a parliamentary working group to look into the circumstances of the arrest and detention of one of its members in July 2003,

Recalling that in June 2002 Parliament's Special Oversight Subcommittee conducted a confidential hearing on the current stage of the investigation, and *considering* in this respect that, at the hearing, the Deputy Speaker spoke of the possibility that Parliament would entrust that Committee with the task of working permanently on the Zorig case,

Considering finally that, according to the sources, the present majority party had promised to resolve this case when it won the 2000 elections,

1. *Thanks* the Mongolian delegation and in particular the Deputy Speaker for the information provided;
 2. *Is dismayed* that, more than five years after Mr. Zorig's murder, the investigation has remained inconclusive; *is deeply concerned* in this respect that the authorities may have transferred Mr. Enkbat Damiran forcibly back to Mongolia and attempted to induce him to make false statements concerning Mr. Zorig's murder;
 3. *Reaffirms* its conviction that Parliament has an essential role to play in ensuring that the investigation is conducted with the necessary independence, diligence and thoroughness; *is therefore pleased to note* that the Deputy Speaker envisages the possibility of entrusting Parliament's Special Oversight Committee with the task of following Zorig's case; *can only encourage* Parliament to take that step and *earnestly hopes* that, despite the forthcoming elections, it will do so as soon as possible;
 4. *Reaffirms* likewise its conviction that using foreign criminological expertise would help the investigation, and *once again* invites the competent authorities to make use of this possibility;
 5. *Stresses* that States have a duty to dispense justice; *recalls* that, by failing to do so, they become guilty by omission of a violation of human rights; and *reaffirms* that Parliament, as a guardian of human rights, has a special duty to ensure that the executive and judicial authorities comply with their obligations, and thus has a duty to ensure that Mr. Zorig's murderers are identified and brought to trial;
 6. *Requests* the Secretary General to convey this resolution to the authorities and the sources, inviting them to keep it informed of progress made in the investigation;
 7. *Requests* the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).
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MYANMAR

Parliamentarians reportedly still serving their sentence:

CASE N° MYN/01 - OHN KYAING
CASE N° MYN/04 - KHIN MAUNG SWE
CASE N° MYN/09 - SEIN HLA OO
CASE N° MYN/13 - SAW NAING NAING
CASE N° MYN/24 - SOE MYINT
CASE N° MYN/60 - ZAW MYINT MAUNG
CASE N° MYN/80 - KYAW SAN
CASE N° MYN/104 - KYAW KHIN
CASE N° MYN/118 - THAN NYEIN

CASE N° MYN/119 - MAY WIN MYINT
CASE N° MYN/122 - MIN SOE LIN
CASE N° MYN/124 - OHN MAUNG
CASE N° MYN/133 - YAW HIS
CASE N° MYN/134 - MIN KYI WIN
CASE N° MYN/138 - TOE PO
CASE N° MYN/209 - WIN MYINT AUNG
CASE N° MYN/215 - AUNG SOE MYINT

Parliamentarians who died in custody:

CASE N° MYN/53 - HLA THAN
CASE N° MYN/55 - TIN MAUNG WIN
CASE N° MYN/72 - SAW WIN

CASE N° MYN/83 - KYAW MIN
CASE N° MYN/131 - HLA KHIN
CASE N° MYN/132 - AUN MIN

Parliamentarians who were assassinated:

CASE N° MYN/66 - WIN KO
CASE N° MYN/67 - HLA PE

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of the above-mentioned members-elect of the *Pyithu Hluttaw* (People's Assembly) of the Union of Myanmar, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.2), and to the resolution adopted by the Council at its 173rd session (October 2003),

Recalling that not only have the election results of 27 May 1990, in which the National League for Democracy (NLD) won 392 of the 485 seats, not been implemented, but also many MPs-elect have been eliminated from the political process through arbitrary means, including their arbitrary arrest, detention and sentencing under laws infringing basic international human rights standards,

Recalling that in October 2000 talks – which have since broken down - between the military regime and the NLD leader, Daw Aung San Suu Kyi had started, which initially led to the release of several MPs-elect and to the easing of some of the constraints on the operation of lawful political parties,

Recalling that 17 MPs elect are nevertheless still serving their prison sentences and, according to the source, the health of seven of them, namely Dr. Than Nyein, Mr. Ohn Maung, Mr. Sein Hla Oo, Dr. Min Kyi Win, Dr. Min Soe Lin, Dr. May Win Myint and Mr. Soe Myint, has seriously deteriorated in prison,

Noting that, on 3 February 2004, MP-elect Myint Naing was released after serving 14 years of a 25-year prison sentence under Penal Code Article 122(1) for planning to attend a secret meeting in September 1990 in Mandalay to form a provisional government,

Recalling that, on 30 May 2003, following an attack on the motorcade of NLD Leader Ms. Aung San Suu Kyi in the north of the country where she was travelling, 26 MPs-elect and scores of NLD supporters were arrested and several were killed; Ms. Aung San Suu Kyi and several senior NLD officials were placed under "protective custody"; all NLD offices were closed,

Noting that since then, while Ms. Aung San Suu Kyi and U Tin Oo, Vice-Chairman of the NLD, remain under house arrest, all MPs-elect have been released; however, Mr. Soe Win's health has seriously worsened in detention reportedly as a result of torture by Military Intelligence officials, which they denied; *noting* also that only the NLD Headquarters has in the meantime been allowed to reopen,

Considering that the United Nations Special Rapporteur on Myanmar, Mr. Pinheiro, last visited Myanmar in November 2003 and reported "significant setbacks" in the country's human rights situation since his visit in March 2003; he stated that he had gathered *prima facie* evidence that the "30 May incident" could not have happened without the connivance of State agents and that there had been an escalation of threats, provocation, harassment, intimidation, bullying, and orchestrated acts of violence with the involvement of those opposed to the NLD and/or those who had some connection with government-affiliated bodies,

Recalling that, on 30 August 2003, General Khin Nyunt announced a "road map" for Myanmar's future; *noting* that, as a first step, the authorities will on 17 May 2004 reconvene the National Convention on the basis of the "6 objectives", including participation of Myanmar's military in the leading role of national politics of the State in the future, which guided the Convention when it was first set up in 1993, together with the same widely criticised procedures and the "104 principles" and Detailed Basic Principles which set out a detailed blueprint for a unitary, military-dominated State,

Noting also that, according to the source, Order 5/96, which penalises any criticism of the National Convention, is still in force and that MPs-elect are at present forced to sign an agreement to participate in the Convention or otherwise resign; *noting* in this respect that the NLD leadership announced on 16 April that it would not participate in the National Convention so long as it remained unchanged,

1. *Deplores* the persistent absence of cooperation and response from the authorities, particularly in view of the serious observations made by the United Nations Special Rapporteur about the situation in Myanmar;
2. *Reaffirms its conviction* that the National Convention, in its present form, is designed to prolong and legitimise military rule against the will of the people as expressed in the 1990 elections, and thus stands in direct opposition to the principle enshrined in the Universal Declaration of Human Rights that the "*will of the people shall be the basis of the authority of government*";
3. *Expresses therefore deep concern* at the intention of the authorities to reconvene the National Convention through coercion and under conditions inimical to any genuine democratic procedure and debate;
4. *Remains convinced* that any transition towards democracy in Myanmar, through the National Convention or otherwise, will fail so long as it is not genuinely free, transparent and reflective of the people's will and preceded by the unconditional release of all political prisoners, the lifting of all remaining restrictions on the enjoyment of human rights, and the opening of all political parties' offices;
5. *Urges* therefore the authorities, as part of the necessary steps in this direction, to release forthwith the 17 MPs-elect who are still serving prison sentences, to conduct without any further delay a thorough, independent and transparent investigation into the 30 May 2003 incident, including the alleged torture of Mr. Soe Win in detention, and to hold those responsible to account;

6. *Remains convinced* that strong and concerted action by members of the Inter-Parliamentary Union, in particular those from the region, is crucial to bringing about respect for democratic principles in Myanmar; *calls on* them to adopt appropriate and effective steps to this end;
 7. *Reiterates its wish* to conduct an on-site mission with a view to assisting a satisfactory settlement of this case;
 8. *Requests* the Secretary General to bring this resolution to the attention of the authorities of Myanmar and the source;
 9. *Requests* the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).
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CASE N° PAK/08 - ASIF ALI ZARDARI - PAKISTAN

***Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)***

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Senator Asif Ali Zardari of Pakistan, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Taking account of two communications from the Senate of Pakistan, dated 16 January and 15 March 2004, and of the information provided by members of the Pakistani delegation at the hearing held on the occasion of the 110th Assembly (April 2004),

Also taking account of a communication from one of the sources dated 25 March 2004,

Recalling that Mr. Zardari was tortured on 17 and 19 May 1999 while in the custody of the Central Investigative Agency (CIA), as found by the District and Session Judge of Malir Karachi in his conclusions of 11 September 1999; instead of acting against the culprits, the authorities brought two charges of attempted suicide against Mr. Zardari, who was subsequently acquitted in court, as acknowledged by the delegation; *considering* that almost five years later no action has been taken to punish the culprits, a delay which the delegation acknowledged as excessive, while adding that Mr. Zardari had yet to identify the officers responsible,

Recalling the consistent concerns it has expressed at Mr. Zardari's prolonged detention since November 1996 and the fact that, whenever he was about to be released on bail in cases pending against him, his arrest was ordered in a new case or in an already pending case, allegedly to ensure his continued detention,

Recalling that many criminal and accountability proceedings were brought against Mr. Zardari, some of which have now been under way for more than seven years without reaching the trial stage; in September 2001, the Supreme Court issued an order that the accountability references be disposed of in three months so as to allow Mr. Zardari subsequently to face trial in the six criminal cases in Karachi; the order was subsequently extended for a further three months; in the light of the failure of the authorities to respect the timetable, Mr. Zardari's defence filed an appeal with the Supreme Court; on 14 May 2003 that Court reserved the order, which has not been announced to date; according to information provided by the Senate, the National Accountability Bureau filed an appeal in the Supreme

Court on 13 October 2003, which was still pending, to ensure that Mr. Zardari could be judged alternately in Islamabad and Karachi every three months; *recalling* further that, while the source has held the authorities responsible for the delays in the criminal and accountability proceedings, the latter have blamed the length of the proceedings on Mr. Zardari and his lawyers; *considering* in this respect that, according to the Pakistani delegation, Mr. Zardari's ill health regularly required postponement of the proceedings,

Considering that, according to the delegation, Mr. Zardari has recently been allowed to travel to Switzerland to enable him to defend himself before a Swiss court on money-laundering charges,

1. *Thanks* the Pakistani delegation for the information it provided and for its commitment to continuing cooperation;
2. *Is deeply concerned* at the authorities' lack of resolve to act on the conclusive judicial findings adopted more than four years ago that Mr. Zardari was tortured by State officials;
3. *Stresses* that the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (United Nations General Assembly resolution 3452 (XXX) of 9 December 1975) leaves no doubt as to the responsibility of the authorities to take action by stating that "*criminal proceedings shall be instituted against the alleged offender or offenders...if an investigation establishes that an act of torture appears to have been committed*";
4. *Urges the authorities once more* to put the judicial findings into effect without any further delay and, using the register with the names of the officers on duty at the time and place of Mr. Zardari's torture, to identify the culprits and bring them to trial;
5. *Is perplexed* at the delegation's contention that Mr. Zardari's ill health, which, owing to the alleged lack of proper medical attention in detention, has long been a concern in itself, is to blame for the delay in the proceedings;
6. *Notes* that it transpires from this observation that Mr. Zardari is indeed in ill health; *considers* this to be a compelling reason for granting him bail;
7. *Fails to understand* how two appeals requesting the establishment of a timetable for a series of already excessively lengthy proceedings can remain unanswered by the Supreme Court for more than 6 and 11 months respectively; *would greatly appreciate* receiving clarification in this respect;
8. *Recalls* that, under internationally recognised human rights norms, anyone arrested or detained on a criminal charge must be either tried without undue delay or released immediately;
9. *Fears* that the length of the proceedings and complete lack of progress in several of the proceedings, coupled with the serious allegations of Mr. Zardari's arrest in a new or dormant case whenever his release on bail was imminent, may indicate that his detention and prosecution is based on other than legal considerations;
10. *Urges therefore* the authorities either to conclude the proceedings without any further delay or to close them;
11. *Wishes* to be kept informed of developments in the money-laundering case to be heard in a Swiss court;

12. *Takes note with satisfaction* of the expressed commitment of the Pakistani delegation to raise the outstanding concerns in this case in Parliament and to assist in providing the requested information; *wishes to ascertain* what subsequent action is taken by Parliament to avail itself fully of its oversight function in this case;
 13. *Requests* the Secretary General to convey the resolution to the authorities and to the sources;
 14. *Requests* the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).
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CASE N° PAL/ 04 - HUSSAM KHADER - PALESTINE

***Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)***

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Mr. Hussam Khader, an incumbent member of the Palestinian Legislative Council in Ramallah, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Recalling that Mr. Khader was arrested on 17 March 2003 at his home in Balata refugee camp by the Israeli Defence Forces (IDF), who reportedly confiscated personal property of his, including a computer, a mobile telephone and papers relating to his parliamentary work; they then took him to the Petah Tikva detention camp and investigation headquarters in Israel; the detention orders have reportedly since been regularly renewed; according to the sources, Mr. Khader is frequently transferred from one prison to another; he is reportedly suffering from severe spinal pain as a result of the interrogation methods, sleep deprivation and conditions of detention; although his state of health is said to be deteriorating, he reportedly does not receive the medical treatment he needs,

Recalling that, according to information provided by the Speaker of the Knesset in June 2003, Mr. Khader was arrested on suspicion of extensive involvement in the military activities of the Tanzim, a terror organisation, including the financing of specific acts of terror; the evidence in this case was being examined by the IDF prosecution authorities in order to determine whether to indict Mr. Khader and bring him to trial; at the first hearing, on 26 March 2003, before the military investigating judge at the Petah Tikva headquarters, his defence counsel was reportedly not allowed to see any of the evidence gathered against him, such material having been classified by the security forces; Mr. Khader will reportedly be tried by a military court and a first court hearing was reportedly set for December 2003,

Considering that, according to information supplied by the sources on 16 January 2004, Mr. Khader was transferred from Haddarim prison to Beer Saba prison, where he is said to have been detained in solitary confinement in the "Ishel" section of the prison, being denied access to his lawyers,

Recalling that, in view of the widely diverging views of the authorities and the sources regarding Mr. Khader's situation, in particular his conditions of detention, the Committee decided to carry out an on-site mission but was unable to obtain the agreement of the Israeli authorities because, as stated by the Speaker in his letter of 9 July 2003, "...an official visit by the representatives of the Committee to the accused man in prison would be interpreted as an enquiry committee into the conditions of imprisonment and we cannot therefore accede to this request",

Bearing in mind that Israel is a party to the International Covenant on Civil and Political Rights and to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and is thus bound to respect the rights and liberties therein guaranteed, in particular the right not to be subjected to torture and ill-treatment, the right to freedom from arbitrary arrest and detention, and the right to judicial guarantees ensuring fair trial; *referring* in this respect to the concluding observations of the United Nations Human Rights Committee on Israel's second periodic report of 21 August 2003 (CCPR/CO/78/ISR) and its concerns about the use of prolonged detention without any access to a lawyer or other outside persons, and about certain interrogation techniques,

1. *Remains deeply concerned* at the serious allegations regarding Mr. Khader's conditions of detention and the interrogation methods used, in particular sleep deprivation, and at the allegation that Mr. Khader has no regular access to his lawyers, who, moreover, are reportedly denied the information required to prepare Mr. Khader's defence;
2. *Deeply regrets* that the proposed mission could not be carried out since the Israeli authorities refused to let its delegation meet Mr. Khader; therefore *considers* that it lacks any data such as might dispel its concerns;
3. *Considers* that the legal considerations and arguments put forward in the expert report on Mr. Barghouti's trial with respect to transfer of Palestinian citizens from Palestinian to Israeli territory, the conditions of detention and interrogation methods, and the competence of Israeli courts to judge Mr. Barghouti apply *mutis mutandis* in this case;
4. *Reiterates its wish* to ascertain Mr. Khader's current situation, in particular his state of health and conditions of detention, and to be kept informed of the proceedings against him;
5. *Requests* the Secretary General to convey this resolution to the Speaker of the Knesset and to the sources, inviting him to provide the requested information;
6. *Requests* the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).

CASE N° RW/06 - LEONARD HITIMANA - RWANDA

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Mr. Léonard Hitimana, a member of the Transitional National Assembly of Rwanda dissolved on 22 August 2003, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Taking account of the information provided by a member of the Rwandan delegation at the hearing held on the occasion of the 110th Assembly (Mexico, April 2004); *also taking account* of communications from the sources dated 2 February and 20 April 2004,

Recalling the following information on file:

- Mr. Léonard Hitimana, MP and member of the former Democratic Republic Movement (*Mouvement démocratique républicain, MDR*), disappeared in the night of 7 to 8 April 2003 after visiting a friend in Kigali; his car was found on 9 April 2003 near the Ugandan border; the sources believe that it had been left there to suggest that Mr. Hitimana had left the country; they believe that Mr. Hitimana is in fact the victim of a forced disappearance and was abducted by the Rwandan intelligence service (DMI) because he had been mentioned in the parliamentary report of 17 March 2003 on the MDR as belonging to a group of persons allegedly seeking to disseminate an ideology of divisive ethnic discrimination;
- Upon learning of Mr. Hitimana's disappearance, the President of the then Transitional National Assembly immediately alerted the security services so that "*an investigation might be conducted to shed full light on the situation*"; according to the President of the Chamber of Deputies elected in September 2003, the parliamentary Committee on National Unity and Human Rights, shortly before the dissolution of the former Assembly, met the Minister of Internal Security to inquire into any progress in the investigation; however, no final conclusions were reached and the newly established parliamentary Committee on National Unity and Human Rights is closely following the investigation;
- Immediately after Mr. Hitimana's disappearance, the Speaker of the Transitional National Assembly reportedly suspended Mr. Hitimana's salary and other benefits attaching to his position; his car was reportedly returned to his family only months later and the family itself is said to be the target of threats and intimidation,

Considering the following information provided by the Rwandan delegation:

- In the report of the parliamentary commission inquiring into the activities of the former MDR, several other, more prominent persons were accused together with Mr. Hitimana; nothing has happened to them and they are pursuing their activities normally, including in the Government; linking Mr. Hitimana's disappearance to the parliamentary report on the MDR is therefore questionable;
- Another MP, Mr. Balthasar, disappeared and his car was found near the Ugandan border; however, unlike Mr. Hitimana, he was rumoured to be abroad;
- Parliament's Committee on Human Rights and National Unity is monitoring the investigation and has been told by the police that they are working on the case and will inform it once they are ready; while the Committee awaits the report, it is continuing its contacts with the police; the Committee has no reason to believe that the police are not doing their job; the time has not yet come to question the Minister of Justice or the Minister of the Interior about the investigation into Mr. Hitimana's disappearance; the Committee has reported on its activities in this case; however, the report is not for distribution and is written in the national language;
- According to the regulations in force, if an MP does not report for work during five consecutive days for whatever reason, the salary will be suspended as of the following month; so long as the fate of a disappeared MP or parliamentary officer is not established, the salary will remain suspended; Mr. Hitimana's case has been treated like any other case of an MP or parliamentary officer not reporting for work; however, salaries are retroactively paid once the person returns and resumes work or it is established that he/she was unable to work; the salary of an MP does not comprise any family allowances, which means that Mr. Hitimana's family receives no such allowances;

- Mr. Hitimana's wife died before his disappearance and Parliament is unaware of any threats to or harassment of their children; any such incidents should be brought to the attention of the Committee on Human Rights and National Unity or another independent human rights institution, such as the Ombudsman, for the necessary action,

Bearing in mind that Rwanda is a party to the African Charter of Human and Peoples' Rights and is also a signatory to the International Covenant on Civil and Political Rights, both of which guarantee the right to life, liberty and security of person,

1. *Thanks* the Rwandan delegation for the information provided;
 2. *Remains deeply concerned* at the disappearance of Mr. Hitimana and the fact that, one year later, the investigation seems to have made little progress;
 3. *Notes* that the authorities, unlike in other cases, are unaware of any rumours that Mr. Hitimana has reappeared abroad;
 4. *Notes* that the suspension of Mr. Hitimana's salary is required under the regulations in force, but will be retroactively paid should he have disappeared involuntarily; *remains concerned* at the alleged harassment of Mr. Hitimana's family, and *considers* that, given the circumstances, Parliament should make every effort to support and ensure the security of Mr. Hitimana's family;
 5. *Trusts* that the parliamentary Committee on National Unity and Human Rights will continue to follow the investigation closely to ensure that it is indeed conducted with the necessary independence, thoroughness and diligence; *wishes* to be kept informed of any progress made and results obtained; *also wishes* to receive a copy of that Committee's report on its activities in this case;
 6. *Notes* that, so long as Mr. Hitimana's whereabouts have not been established, there remains the suspicion of a "forced disappearance"; *recalls* that forced disappearances are a serious violation of human rights, and *recalls* Article 1 of the "Declaration on the Protection of All Persons from Enforced Disappearance", adopted by the United Nations General Assembly in 1992, which states that: "*Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights . . .*";
 7. *Requests* the Secretary General to convey this resolution to the parliamentary authorities, inviting them to keep it informed of any developments;
 8. *Requests* the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).
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CASE N° SYR/02 - MAMOUN AL-HOMSI - SYRIAN ARAB REPUBLIC

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Mr. Mamoun Al-Homsi, a former member of the People's Council of the Syrian Arab Republic, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Taking account of the information provided by the Syrian delegation at the hearing held on the occasion of the 110th Assembly (April 2004),

Recalling that Mr. Al-Homsi was arrested on 9 August 2001, following the publication of an open letter in which he called, *inter alia*, for the observance of the Constitution, the lifting of the state of emergency, a strengthening of the judiciary, pursuit of the fight against corruption, a halt to the intrusion of the security services in daily life, an increased role for the People's Council, and the establishment of a parliamentary committee for the protection of human rights; he was subsequently charged with attempting to change the Constitution by unlawful means, preventing the authorities from carrying out their duties, undermining national unity, tarnishing the reputation of the State, impeding the functioning of its institutions, and insulting the legislative, executive and judicial branches; on 20 March 2002, the Second Penal Court of Damascus sentenced him to five years' imprisonment, which he is at present serving; one of the three judges delivered a dissenting opinion pointing out that, as an elected MP, Mr. Al-Homsi should enjoy the freedom of speech guaranteed to him under Article 38 of the Constitution and held that the court had failed to take into account the arguments put forward by the defence team and Mr. Al-Homsi himself; the observers from the European Union qualified the trial as falling short of internationally accepted standards of fair trial; moreover, Mr. Al-Homsi's health has deteriorated in detention as he reportedly does not receive the necessary medical treatment for his diabetes,

Recalling that, given its concerns that Mr. Al-Homsi may have been prosecuted on account of acts that constitute peaceful and legitimate exercise of his right to freedom of expression, it called on the Head of the State to grant Mr. Al-Homsi an amnesty and called on the Syrian Parliament to relay its plea favourably to him,

Noting that, on the occasion of his attending the 11th Conference of the Arab Inter-Parliamentary Union in Damascus on 1 and 2 March 2004, the Secretary General was granted a meeting with the Head of the State and took the opportunity to relay to him the IPU Governing Council's plea for an amnesty in favour of Mr. Al-Homsi,

Considering that, according to the Syrian delegation, in October 2003 Parliament requested the President of the Republic to pardon Mr. Al-Homsi; an ad hoc commission has been set up to study his case together with that of Mr. Riad Seef, and that both may be released shortly,

1. *Thanks* the Syrian delegation for the information provided;
 2. *Appreciates* the fact that the Syrian Parliament requested the Head of State to grant Mr. Al-Homsi an amnesty, and *sincerely hopes* that he will indeed be released soon;
 3. *Requests* the Secretary General to convey this resolution to the competent authorities and to the sources;
 4. *Requests* the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004), when it hopes to be able to close it on account of its settlement.
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CASE N° SYR/03 - RIAD SEEF - SYRIAN ARAB REPUBLIC

***Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)***

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Mr. Riad Seef, a former member of the People's Council of the Syrian Arab Republic, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Taking account of the information provided by the Syrian delegation at the hearing held on the occasion of the 110th Assembly (April 2004),

Recalling that Mr. Riad Seef was arrested on 6 September 2001 and charged with "*defaming the Constitution, unlawful activities and hostility towards the regime*" for having organised meetings at which political questions were discussed and for his attempts to set up a political party; on 4 April 2002, the Criminal Court of Damascus found him guilty of attempting to change the Constitution by unlawful means, setting up a clandestine organisation and organising unauthorised meetings; on 24 June 2002, the judgment was upheld on appeal and Mr. Seef is now serving his sentence; according to observers from the European Union, the trial fell short of fair trial standards; Mr. Seef had in particular been prevented from properly presenting his defence,

Recalling that, given its concerns that Mr. Riad Seef may have been prosecuted on account of acts that constitute peaceful and legitimate exercise of his right to freedom of expression and of assembly, it called on the Head of the State to grant him an amnesty and invited the Syrian Parliament to relay its plea favourably to him,

Noting that, on the occasion of his attending the 11th Conference of the Arab Inter-Parliamentary Union in Damascus on 1 and 2 March 2004, the Secretary General was granted a meeting with the Head of the State and took the opportunity to relay to him the IPU Governing Council's plea for an amnesty in favour of Mr. Riad Seef,

Considering that, according to the Syrian delegation, in October 2003, Parliament requested the President of the Republic to pardon Mr. Riad Seef; an ad hoc commission has been set up to study his case together with that of Mr. Al-Homsi, and both may be released shortly,

1. *Thanks* the Syrian delegation for the information provided;
 2. *Appreciates* that the fact that the Syrian Parliament requested the Head of State to grant Mr. Riad Seef an amnesty, and *sincerely hopes* that he will indeed be released soon;
 3. *Requests* the Secretary General to convey this resolution to the competent authorities and to the sources;
 4. *Requests* the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004), when it hopes to be able to close it on account of its settlement.
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TURKEY

CASE N° TK/39 - LEYLA ZANA
CASE N° TK/40 - SEDAT YURTDAS
CASE N° TK/41 - HATIP DICLE
CASE N° TK/42 - ZÜBEYIR AYDAR
CASE N° TK/43 - MAHMUT ALINAK
CASE N° TK/44 - AHMET TÜRK
CASE N° TK/48 - SIRRI SAKIK
CASE N° TK/51 - ORHAN DOGAN

CASE N° TK/52 - SELIM SADAK
CASE N° TK/53 - NIZAMETTIN TOGUÇ
CASE N° TK/55 - MEHMET SINÇAR
CASE N° TK/57 - MAHMUT KILINÇ
CASE N° TK/58 - NAIF GÜNES
CASE N° TK/59 - ALI YİGIT
CASE N° TK/62 - REMZİ KARTAL

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of the above-mentioned parliamentarians, former members of the Turkish Grand National Assembly (TGNA) as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.2), and to its resolution adopted at its 173rd session (October 2003),

Taking account of a communication from the President of the Turkish IPU Group dated 13 April 2004,

Taking account further of the information provided by the sources on 27 and 30 October, 7 November 2003 and 14 January 2004, including a copy of the International Commission of Jurists (ICJ) trial observers' report,

Recalling that, apart from Mr. Sinçar, whose assassination in September 1993 has remained unpunished, the persons concerned lost their parliamentary mandates as a result of the banning of the political party to which they belonged; six went into exile and the others were sentenced to prison terms which four of them, Ms. Zana, Mr. Dicle, Mr. Dogan and Mr. Sadak, who were sentenced in December 1994 to a 15-year prison term, are still serving; in its judgment of 17 July 2001 on their case, the European Court of Human Rights found, *inter alia*, that "they suffered such violations of their right to defence that they did not enjoy a fair trial" and granted them an equitable satisfaction,

Recalling that, in January 2003, the Turkish Parliament passed legislation permitting the retrial of Leyla Zana *et al.*, which opened on 28 March 2003 before the Ankara State Security Court,

Considering that, according to the President of the Turkish IPU Group, "*the decisions of the European Court of Human Rights are of a descriptive nature and only determine whether there is a violation of the European Convention on Human Rights. The Court found a violation of Article 6 of the ECHR in the case of Zana and others. Nevertheless, the Turkish Court's original judgment will remain valid until the retrial procedure is concluded*"; noting in this regard that the Court has on all occasions dismissed the request for a suspension of the execution of their prison sentence and for their release on bail,

Considering the observations made by members of the European Parliament attending the trial and the trial observer report from the International Commission of Jurists (ICJ), according to which the Court failed to respect the principle of equality of arms between the prosecution and the defence and "...was neither independent nor impartial"; the ICJ report noted in this regard a clear violation of the presumption of innocence given that (i) the president of the Court had commented in open Court that "*the deficiencies and mistakes identified by the European Court of Human Rights will not change the guilt of the accused*", (ii) the defendants had frequently been referred to as the "convicted" ("hukumlu"), (iii) on 20 June 2003, the Court refused the application for release of the defendants on the basis that the

conviction given in 1994 was still valid; the report also noted serious fair trial deficiencies with respect to the layout of the Court, the examination of witnesses, the recording of legal submissions of the defence and statements of the defendants, the opportunity for the defence to adduce relevant evidence, the failure of the prosecution to disclose material evidence against the accused, and the lack of continuity of the judges' panel,

Considering also that, on 20 November 2003, the four persons concerned filed a petition in the European Court of Human rights complaining that their retrial lacked fair trial guarantees,

Considering finally that, on 21 April 2004, the Ankara State Security Court handed down its judgment, upholding the conviction of Ms. Zana, Mr. Dicle, Mr. Sadak and Mr. Dogan and their sentencing to 15 years' imprisonment; the verdict drew widespread international criticism, notably from the European Parliament, which had monitored the trial; the defence counsel intended to appeal the verdict,

1. *Thanks* the President of the Turkish IPU Group for his letter of 13 April 2004;
2. *Is shocked* that, as shown in the detailed trial observer reports, the sentence handed down on Ms. Zana, Mr. Dicle, Mr. Sadak and Mr. Dogan was once again the outcome of proceedings patently failing to respect the fair trial guarantees laid down in Article 6 of the European Convention on Human Rights (ECHR), which Turkey is bound to respect as a party thereto;
3. *Affirms* that, if they are to make sense, retrial proceedings must respect all fair trial guarantees, in particular the presumption of innocence and the right of the accused to present their defence and thus to clear themselves of the charges against them;
4. *Considers* therefore that the retrial proceedings were fundamentally flawed from the outset, given not only that the presiding Judge had taken part in the original proceedings and openly stated his conviction of the guilt of the accused, but also that the authorities claim validity of the original judgment until conclusion of the retrial proceedings, when the European Court of Human Rights had disposed of its legal foundations by ruling that it was the outcome of an unfair trial;
5. *Considers* that the failure to respect the presumption of innocence, coupled with the bias displayed by the court throughout the proceedings in favour of the prosecution, reflects profound disregard for the judgment of the European Court of Human Rights, which gave rise to the retrial in the first place, and hence for Turkey's obligations under the European Convention on Human Rights;
6. *Again urges* the competent authorities to release forthwith the four former MPs, who have already served 10 years in prison as a result of an unfair trial; *urges* the Turkish Grand National Assembly to use all its powers to that end;
7. *Notes* that the four former parliamentarians concerned have once more taken their case to the European Court of Human Rights; *wishes to ascertain* whether the Court will examine the case as a matter of urgency given that the implementation of an earlier judgment is at issue;
8. *Requests* the Secretary General to convey this resolution to the Turkish parliamentary and other competent authorities and to the Council of Europe;

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9. Requests the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).
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CASE N° TK/66 - MERVE SAFA KAVAKÇI - TURKEY

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Ms. Merve Safa Kavakçi of Turkey, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Taking account of the information provided by the source on 14, 16 and 22 April 2004,

Recalling that Ms. Kavakçi was duly elected in the April 1999 elections on the Virtue Party ticket but was prevented from taking her oath because she was wearing a headscarf at the swearing-in ceremony and was thus unable to carry out her parliamentary mandate; she was subsequently deprived of her Turkish nationality, for which reason the parliamentary authorities no longer considered her a member of the Turkish Parliament and even struck her name off the parliamentary records; moreover, on 22 June 2001, the Constitutional Court dissolved the party to which she belonged and banned her from political activity for five years; *recalling* its view that Ms. Kavakçi was not only arbitrarily prevented from assuming her mandate and duties as an elected representative of the Turkish people, thus depriving her constituents of the right to be represented by a person of their choice, but also deprived of her membership without any valid legal basis and under a procedure not provided for in Turkish law,

Considering that Ms. Kavakçi filed an application regarding the loss of her parliamentary mandate in the European Court of Human Rights, which has invited the Turkish Government to provide its observations on the admissibility of the application by 1 July 2004,

Considering that, according to the source, a charge under Article 159 of the Turkish Penal Code (insulting and vilifying the dignity of the Republic and of the Armed Forces in writing) on account of a statement she made in November 2001 on the Al-Jazeera TV channel was withdrawn; however, another charge under Article 159 in respect of an interview she had given to the Gercek Hayat Magazine is still pending; Ms. Kavakçi, who is currently living in the United States of America, fears therefore that she would be arrested on her return to Turkey,

Recalling also that, at the hearing held with him on the occasion of the 109th Assembly (October 2003), the President of the Turkish Inter-Parliamentary Group, a former party colleague of Ms. Kavakçi, regretted the treatment meted out to her and stated that the Turkish Parliament had taken measures to prevent any recurrence of such a case,

1. *Deeply regrets* that the parliamentary authorities have failed to reply to the letters addressed to them by the Secretary General regarding this case;
2. *Calls once again* on the Turkish Parliament to provide redress to Ms. Kavakçi for the moral and financial prejudice she has suffered as a result of her arbitrary exclusion from Parliament, and *recalls* in this respect that the present Parliament itself has expressed regret at the treatment meted out to her by the previous Parliament;

3. *Would appreciate information as to what measures Parliament has taken to prevent any recurrence of such a case;*
 4. *Notes that proceedings regarding the loss of Ms. Kavakçi's parliamentary mandate are pending before the European Court of Human Rights, and wishes to be kept informed of the relevant proceedings;*
 5. *Notes that one charge brought against Ms. Kavakçi under Article 159 has been withdrawn and that another is still pending; wishes to ascertain the likelihood that the second charge will also be withdrawn;*
 6. *Requests the Secretary General to convey this resolution to the authorities and to the source;*
 7. *Requests the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).*
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ZIMBABWE

CASE N° ZBW/12 - JUSTIN MUTENDADZAMERA
CASE N° ZBW/13 - FLETCHER DULINI-NCUBE
CASE N° ZBW/14 - DAVID MPALA
CASE N° ZBW/15 - ABEDNICO BHEBHE
CASE N° ZBW/16 - PETER NYONI
CASE N° ZBW/17 - DAVID COLTART
CASE N° ZBW/18 - MOSES MZILA NDLOVU
CASE N° ZBW/19 - ROY BENNET
CASE N° ZBW/20 - JOB SIKHALA
CASE N° ZBW/21 - TICHAONA MUNYANYI
CASE N° ZBW/22 - PAULINE MPARIWA

CASE N° ZBW/23 - TRUDY STEVENSON
CASE N° ZBW/24 - EVELYN MASAITI
CASE N° ZBW/25 - TENDAI BITI
CASE N° ZBW/26 - GABRIEL CHAIBVA
CASE N° ZBW/27 - PAUL MADZORE
CASE N° ZBW/28 - GILES MUTSEKEWA
CASE N° ZBW/29 - A. MUPANDAWANA
CASE N° ZBW/30 - GIBSON SIBANDA
CASE N° ZBW/31 - MILTON GWETU
CASE N° ZBW/32 - SILAS MANGONO
CASE N° ZBW/33 - E. MUSHORIWA

*Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)*

The Governing Council of the Inter-Parliamentary Union,

Referring to the outline of the case of Mr. Justin Mutendadzamera, Mr. Fletcher Dulini-Ncube, Mr. Moses Mzila Ndlovu, Mr. David Mpala, Mr. Abednico Bhebhe, Mr. Peter Nyoni, Mr. David Coltart, Mr. Roy Bennet, Mr. Job Sikhala, Mr. Tichaona Munyanyi, Ms. Pauline Mpariwa, Ms. Trudy Stevenson, Ms. Evelyn Masaiti, Mr. Tendai Biti, Mr. Gabriel Chaibva, Mr. Paul Madzore, Mr. Giles Mutsekewa, Mr. Austin Mupandawana and Mr. Gibson Sibanda, all incumbent members of the Parliament of Zimbabwe, as contained in the report of the Committee on the Human Rights of Parliamentarians(CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Recalling that the MPs concerned are all members of the recently created opposition Movement for Democratic Change (MDC), which in the 2000 general elections won 57 of the 120 directly elected seats of the Parliament of Zimbabwe,

Recalling that, according to the source, the MPs concerned, were either victims of fabricated charges, illegal detentions, ill-treatment, including cases of torture, or victims of violent attacks generally led by youth groups linked to the Government party, in the absence of any attempt by the authorities to identify and prosecute the attackers,

Similarly recalling that, according to the Government authorities, these MPs "have tried to advance perspectives that they are being [made] victims by the government and Zanu PF supporters" so as to further their political agenda aimed ultimately at changing the Government by any means,

Recalling that, at its 171st session (September 2002), it decided to carry out an on-site mission to gather on the spot as much detailed information as possible on the situation of the MPs concerned through meetings with the competent parliamentary, governmental, judicial and administrative authorities, with the MPs concerned themselves and any other organisations or persons competent to provide relevant information; *recalling* that the authorities of Zimbabwe agreed to the mission, but that it had to be postponed twice at their request,

Considering that the mission finally went ahead from 28 March to 2 April 2004 and, at the Committee's request, was carried out by the its former President, Mr. Juan-Pablo Letelier, and honorary Secretary General Mr. Pierre Cornillon, who were accompanied by the Committee's Secretary,

Considering that, at its session in Mexico City, the Committee heard an oral report from Mr. Letelier and also heard Mr. Patrick Chinamasa, Minister of Justice, Legal and Parliamentary Affairs and leader of the Zimbabwean delegation to the 110th Assembly,

Noting that the mission was able to fulfil its mandate and, with the exception of the Minister of Home Affairs, met the competent authorities and the MPs concerned themselves; *noting* also that the police authorities have sent in writing the additional information they undertook to provide,

Considering that the delegation's preliminary observations suggest that, while the role of the political opposition is seemingly understood in Parliament, the governmental and the administrative authorities, in particular the police, and the government media, tend to disparage the MDC and its members, with all the consequences that attend such a negative and partial perception of a political party by the authorities,

Considering that, after the return of mission, information on new arrests of MDC members, in particular the arrest of MP Evelyn Masaiti on 17 April 2004, has reached the Committee,

1. *Thanks* the Parliament of Zimbabwe, in particular the speaker, for the arrangements made to enable the mission to go ahead and to fulfil its mandate; *also thanks* him for the hospitality extended to its delegation;
2. *Also thanks* the governmental, judicial and administrative authorities for their cooperation with the delegation and for the information they provided;
3. *Wishes to thank* all other parties with whom the delegation met, in particular the mps concerned themselves, for their cooperation;
4. *Thanks* the delegation for its work; *fears*, in the light of its preliminary findings, that the information it was able to gather tends to confirm its earlier concerns regarding the systematic harassment of the political opposition;
5. *Awaits with interest* the mission's detailed written report and the comments the authorities and other parties concerned may submit on it;
6. *Requests* the Secretary General to convey this resolution to the authorities, the MPs concerned and the sources;
7. *Requests* the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).

CASE N° PAL/02 - MARWAN BARGHOUTI - PALESTINE

***Resolution adopted unanimously by the IPU Governing Council at its 174th session
(Mexico City, 23 April 2004)***

The Governing Council of the Inter-Parliamentary Union,

Referring to the case of Mr. Marwan Barghouti, an incumbent member of the Palestinian Legislative Council in Ramallah, as contained in the report of the Committee on the Human Rights of Parliamentarians (CL/174/12(b)-R.1), and to the resolution adopted at its 173rd session (October 2003),

Recalling that on 15 April 2002 the Israeli Defence Forces arrested Mr. Marwan Barghouti in Ramallah and transferred him to Israeli territory; trial proceedings on charges of premeditated murder, being accessory to murder, incitement to murder, attempted murder, conspiracy to commit a crime, activity in a terrorist organisation and membership in a terrorist organisation opened before the Tel Aviv District Court on 19 January 2003; the last hearing took place on 29 September 2003 but the court has not as yet delivered its judgment,

Recalling the concerns it has expressed at the alleged ill-treatment of Mr. Barghouti in detention, the interrogation methods used and his state of health, in addition to its questioning of the competence of the Israeli court to try Mr. Barghouti,

Recalling that the on-site mission the Committee had decided to carry out did not take place since the Israeli authorities refused to let the delegation meet Mr. Barghouti personally; taking up an invitation from the Speaker, extended in his letter of 9 July 2003, to observe the trial proceedings, it decided at its 173rd session to send a trial observer; however, the last court hearing having taken place on 29 September 2003, the Committee decided to send an expert to Israel to gather on the spot as much detailed information as possible on Mr. Barghouti's trial,

Considering that the expert, Mr. Simon Foreman, a lawyer in the Soulez & Larivière law firm in Paris, travelled to Israel on 8 and 9 December 2003 and was able to meet the prosecutor in the case, Mr. Barghouti's defence and other parties; he has provided the Committee with his report, which is annexed to the resolution,

1. *Thanks* the Israeli authorities, in particular the prosecutor in Mr. Barghouti's case, for the cooperation they extended to Mr. Simon Foreman; *also thanks* all other parties with whom he met for their cooperation;
2. *Thanks* Mr. Simon Foreman for carrying out the mission and for his detailed and comprehensive report;
3. *Requests* the Secretary General to convey the report to all parties concerned for any observations they may have, which will subsequently be published;
4. *Requests* the Committee on the Human Rights of Parliamentarians to continue examining this case and report to it, in the light of the report and any comments thereon that it may have received, at its next session, to be held on the occasion of the 111th Assembly (September-October 2004).

THE TRIAL OF MR. MARWAN BARGHOUTI – PALESTINE

- **Report by Mr. Simon Foreman, lawyer and expert appointed by the Committee on the Human Rights of Parliamentarians in accordance with the resolution adopted by the Governing Council of the Inter-Parliamentary Union at its 173rd session**

Introduction – Organisation of the mission

On 3 October 2003, at its 173rd session, the Governing Council of the Inter-Parliamentary Union unanimously adopted a resolution expressing its concern at the plight and conditions of trial of Mr. Marwan Barghouti, a member of the Palestinian Legislative Council, arrested in Palestinian territory by the Israeli army on 15 April 2002 and detained since then.

The resolution decided on the sending of an observer to Mr. Barghouti's trial. However, the hearings of the trial were suspended on 29 September 2003 after the statement by the accused of his defence. The judgment was reserved for delivery at a hearing the date of which is as yet unknown.

The Inter-Parliamentary Union therefore entrusted me with studying the circumstances of the trial, in the light both of the information conveyed by the sources having brought the matter to the attention of the IPU Committee on the Human Rights of Parliamentarians and of the direct contacts I was asked to make.

Before carrying out my mission, I gathered together as much documentation on the trial as possible, including reports on hearings as published in the international press or written by experts of non-governmental organisations. I also read the indictment drawn up by the Office of the State Attorney and the defence memoir filed by Mr. Barghouti's defence.

I travelled to Jerusalem and Tel Aviv from 8 to 10 December 2003 in order to meet the representatives of the two parties in the trial:

- Ms. Devorah Chen, Director of the Department of Criminal Security Affairs and Special Affairs within the Office of the State Attorney, representing the prosecution in all the hearings, received me in her Tel Aviv office in the presence of her legal assistants and representatives of the Ministries of Justice and of Foreign Affairs;
- with respect to the defence, I met in Jerusalem Mr. Jawad Boulus, Mr. Barghouti's main lawyer, and in Paris two French lawyers also picked by Mr. Barghouti for his defence, although they were finally not permitted to take part in the debates: Ms. Gisèle Halimi and Mr. Daniel Voguet.

I also had many meetings in Paris, Jerusalem and Tel Aviv with a number of persons who had attended part of the public hearings, including journalists, observers from non-governmental organisations, a specialist in humanitarian law, Professor Géraud de la Pradelle, professor in the University of Paris-X, who also attended a hearing on behalf of the International Federation for Human Rights, and the Deputy Consul in the General Consulate of France in Jerusalem, Mr. Ludovic Pouille.

During my stay in Israel I was in touch with Ms. Nadia Sartawi, representative of the Palestinian Legislative Council, and Ms. Ruth Kaplan, in charge of international affairs in the Knesset. Ms. Kaplan had originally organised for me a meeting with Mr. Reshef Shayne MP, member of the Knesset Legal Affairs Committee, but the meeting was cancelled at the last minute because, as I understood, it was considered preferable that my contacts remain at the level of the Office of the State Attorney rather than that of the legislature.

Finally, I must say that Ms. Chen very obligingly provided me with the almost complete official documentation of the trial, including:

- the two decisions whereby the High Court of Justice ruled, on 3 and 14 May 2002, on the conditions of detention of Mr. Barghouti, the deprivation of his right to meet his lawyer, and his conditions of interrogation;
- two judgments handed down on the preliminary arguments raised by the defence (jurisdiction and lawfulness of the arrest), one in connection with the detention proceedings and the other with the trial proper;
- the official report of the hearings on the merits.

Most of these documents being in Hebrew, their exploitation took a certain time. I warmly thank Mr. Fouad Bitar, a sworn translator, who carried out full or partial translations and helped me to analyse them.

All these meetings and documents supplied the substance of this report, comprising two parts:

- the first is a descriptive account of the situation since Mr. Barghouti's arrest to date, including the presentation of the various proceedings to which the case has given rise;
- the second part is devoted to an analysis of the stages of the trial in order to examine whether Mr. Barghouti has enjoyed all the guarantees provided for under international law.

I. Account of the situation of Mr. Marwan Barghouti: the trial, its context and its progress

1. Context: the second Intifada, "Operation Defensive Shield" and the capture of Mr. Barghouti

Marwan Barghouti, born in 1959, is an elected member of the Palestinian Legislative Council (PLC), the parliament of the Palestinian Authority established following the Oslo II Accords of 28 September 1995. He has since January 1996 been representing in it the constituency of Ramallah, one of the main West Bank towns and the headquarters of most of the Palestinian institutions, including the PLC.

Mr. Barghouti was elected for Fatah, of which political movement he is the general secretary for the West Bank and to which the President of the Palestinian Authority, Yasser Arafat, also belongs. Analysts generally regard him as a "moderate" on account of his support for the Oslo Accords (an opinion expressed, for example, by the former head of the Israeli intelligence services Ephraim Halevy in *Haaretz* in September 2003).

As one of the young leaders of Fatah, he did not, unlike his elders, become known from years of membership of the PLO, but on the ground in Ramallah. In this respect he was looked on as one of the "figures" of the second Intifada, which began in late September 2000, before the Israeli authorities gradually came to accuse him of being one of the chief instigators of the attacks that started striking Israel in the ensuing months.

Mr. Barghouti went underground in August 2001. On 4 August he narrowly escaped a missile strike by the Israeli army at two vehicles leaving Fatah headquarters. Marwan Barghouti was in one of them but the Israeli Government stated that another person was the target even though, according to the Deputy Minister for Internal Security Gideon Erza, he "*amply deserves to die (...), for he is very much to blame for the attacks against Israel*".

The next month the authorities persuaded the Jerusalem Magistrates' Court to issue an arrest warrant for him, on 23 September 2001.

On 18 January 2002 Mr. Barghouti published in the *New York Times* and the *International Herald Tribune* an article that attracted much attention: "Want security, end occupation".

After very violent suicide attacks, notably on the occasion of the Easter holidays (30 killed in Natanya when a terrorist blew herself up on 27 March 2002), the Israeli army called up the reserve and in a few days launched "Operation Defensive Shield" under cover of which it penetrated massively into the occupied territories of the West Bank in order, according to the explanations given on 8 April to the Knesset by Prime Minister Ariel Sharon, to "enter cities and villages which have become havens for terrorists; to catch and arrest terrorists and, primarily, their dispatchers and those who finance and support them".

In this context the Israeli army resumed control of Ramallah, which it had evacuated six years earlier under the Oslo process, and succeeded in locating and then, on 15 April 2002, capturing Marwan Barghouti, presented by Israel as the person in charge of Tanzim, the armed branch of Fatah, and as the founder of the al-Aqsa Martyrs Brigades, a clandestine movement which has claimed many suicide attacks since the start of the second Intifada.

Mr. Barghouti has been in detention since that date.

2. The detention of Mr. Barghouti until his trial

On the day he was arrested, 15 April 2002, Mr. Barghouti was taken by the military forces from Ramallah, in West Bank territory, to Jerusalem and jailed in the "Russian Compound" prison. His arrest was reportedly notified to him officially at 6 p.m. by a police officer. An investigation was apparently opened against him regarding his alleged involvement in a number of attacks that took place in the preceding months.

Three days later, on 18 April 2002, Mr. Barghouti was visited by his lawyer, Mr. Jawad Boulus.

That visit was to be the only one for a long period since, immediately after that meeting, the officer in charge of the investigation took the decision to forbid for a period of five or six days the meetings between Mr. Barghouti and his lawyer,¹ on the grounds that the ban was necessary for the purposes of the investigation and for security reasons. As permitted under Israeli regulations, the ban was extended several times until 15 May 2002. The appeals that Mr. Boulus twice filed against that ban were rejected by two Supreme Court rulings on 3 and 14 May 2002.

As an exception to that ban, it was proposed in the first appeal to the Supreme Court that Mr. Barghouti and his lawyer be able to meet briefly in the presence of a member of the security services, who would be entitled to interrupt the meeting if one or the other started talking about the investigation. The meeting took place on 7 May 2002.

Mr. Barghouti thus remained in solitary confinement for a month, except for two visits by his lawyer, one on 18 April where they were able to communicate freely, and the following on 7 May under the supervision of the security services and without that freedom.

It may also be mentioned at this stage that, after two weeks of detention, Mr. Barghouti was rumoured to have fallen ill and been admitted to hospital. To disprove the rumour, the investigation services invited Mr. Boulus, on 30 April 2002, to observe his client walking in the prison courtyard, unbeknown to him.

During that month of isolation, Mr. Barghouti was interrogated by the security services. Right at the beginning of May 2002, at a time when he was denied any contact with the outside world, the Israeli press published information from Shin Beth that Mr. Barghouti had admitted responsibility in planning the attacks and the personal involvement of the President of the Palestinian Authority, Mr. Arafat, in financing them.

On 15 May the communication restrictions placed on Mr. Barghouti ended.

He was permitted to see his wife on 17 May.

On 21 and 22 May he had long working with his lawyers and described to them his conditions of interrogation: physical pressures in the form of sleep deprivation and uninterrupted interrogations, and recourse to what is known as the *shabeh* method, consisting in attaching the person interrogated to a chair and forcing them to sit for several hours in a painful position – in this case protruding nails in the back of the chair aggravated the discomfort by preventing him from leaning back. Mr. Barghouti also said that the interrogators proffered death threats against him and his son.

When the investigation was over, the file was transmitted to the Office of the State Attorney.

The State Attorney is the prosecuting authority in Israel. It is also for him to decide which court is to try the case, when several might be competent to do so. In this instance, the State Attorney made it known that the choice lay between trying Mr. Barghouti before a military tribunal or before an Israeli court of general jurisdiction.

On 11 July 2002 the Office of the State Attorney made public his decision to try Mr. Barghouti before the court of general jurisdiction, namely the Tel Aviv District Court, on the charges of premeditated murder, incitement to murder, abetting murder, attempted murder, complicity in crime, activity in a terrorist organisation, and membership of a terrorist organisation.

3. The trial

We shall briefly set out the charges brought against Mr. Barghouti in section (a), then the organisation of the proceedings in (b), and the organisation of the defence in (c).

(a) The charges brought against Mr. Barghouti

The indictment was drawn up by Ms. Chen, Director of the Department of Criminal Security Affairs and Special Affairs within the Office of the State Attorney, on 14 August 2002.

¹ The duration of that ban has not been clarified. The ban was the subject of two Supreme Court rulings as we shall see further, a ruling of 3 May 2002 that the ban was for a duration of six days and one of 14 May 2002 that it was for five days.

It accuses Mr. Barghouti of having coordinated a great many terrorist operations directed against Israeli civilian and military targets since the start of the second Intifada, whether suicide attacks with explosives or armed attacks.

The indictment lists 37 attacks or attempted attacks between December 2000 and April 2002 in which Mr. Barghouti is accused of involvement. One of the main attacks is said to be that of 5 March 2002 on a Tel Aviv restaurant: the indictment alleges that Mr. Barghouti authorised the attack and was reported to immediately after. The attack killed three and injured dozens.

He is also accused of having helped finance terrorist operations, in liaison with President Yasser Arafat. According to the indictment, Mr. Barghouti was handed the sum of \$20,000 from President Arafat to finance the training of terrorists, and he passed on to the President of the Palestinian Authority requests for funding that he received from terrorist groups, to which the President decided whether or not to accede.

Mr. Barghouti is finally accused of having interviewed candidates for terrorist actions, deciding whether or not to admit them to the groups of which he is presented as being in charge: Fatah, an organisation described as a terrorist group; Tanzim, the armed branch of Fatah; and the al-Aqsa Martyrs Brigades, a clandestine group set up after the launching of the Intifada.

The whole set of facts held against Mr. Barghouti is qualified as premeditated murder, incitement to murder, abetting murder, attempted murder, complicity in crime, activity in a terrorist organisation, and membership of a terrorist organisation.

(b) Organisation of the proceedings

The charges laid against Mr. Barghouti were thus referred to the Tel Aviv District Court.

The proceedings are split into two branches, one being the consideration of the charges and the judgment on guilt and the sentence, and the other the provisional detention pending judgment.

** Provisional detention*

In Israeli law the judges examining the merits of the case are not competent to rule upon provisional detention, which was the subject of a request from the District Attorney's Office to Judge Zvi Gurfinkel. He was asked to order Mr. Barghouti's detention until the end of the trial.

Before deciding on the request, Judge Gurfinkel had to address a number of objections raised by the defence disputing the competence of the Tel Aviv court to try Mr. Barghouti and rule on his provisional detention, and questioning the lawfulness of his arrest.

Having turned down all those objections in a judgment of 12 December 2002, Judge Gurfinkel ordered the provisional detention of the accused for the duration of his trial.

** Judgment on the merits*

To judge the facts held against Mr. Barghouti and his penal responsibility, the competent panel was made up of three judges: Ms. Sara Zerota, President, and two co-magistrates, Mr. Avraham Tal and Dr. Amram Benjamini.

The hearings before that panel were spread over one year, from September 2002 to September 2003:

- at the first hearing, on 5 September 2002, Ms. Devora Chen, representing the prosecution, read out the charges; the defence announced that it intended to contest the competence of the Court before any examination of the charges;
- the following hearing was therefore devoted to a statement, by the defence, of the reasons for its questioning the competence of the Court to try Mr. Barghouti;
- on 19 January 2003, the Court handed down a judgment rejecting the defence arguments and declaring itself competent to pass judgment on the merits of the case;
- the hearings to consider the charges took place between April and August 2003, with the appearance in particular of the witnesses called by the prosecution;
- the prosecution presented its conclusions on 24 August 2003;
- the defence presented its conclusions on 29 September 2003.

Since that date the judgment has been reserved.

(c) Organisation of the defence

Around Mr. Jawad Boulus, Mr. Barghouti has been advised by a Palestinian lawyer, Mr. Khader Skhirat, an Israeli lawyer, Mr. Shamai Leibovitz, and two French lawyers, Ms. Gisèle Halimi (former deputy and former French ambassador) and Mr. Daniel Voguet. The lawyers not members of the Israeli Bar (Ms. Halimi, Mr. Voguet and Mr. Skhirat) were not allowed to take part in the hearings.

* *The preliminary objections*

The defence's position throughout the trial was that of questioning the right of the Israeli courts to try Mr. Barghouti, advancing a number of arguments which gave rise to preliminary objections, on which the Court had to respond before considering the case itself.

The defence argued that the Tel Aviv District Court could not try Mr. Barghouti for a great many reasons deriving essentially from international law, which will be presented here in outline (we shall come back to some of these arguments in Part II of this report regarding analysis of the trial):

- the Oslo Accords transferred to Palestinian jurisdiction the authority to try Palestinians, including with respect to attacks carried out against Israelis, and the Accords have been embodied in Israeli law;
- Mr. Barghouti should enjoy prisoner-of-war status pursuant to the Third Geneva Convention;
- the arrest of Mr. Barghouti was unlawful since he was abducted from his home in Ramallah, a Palestinian area, by the Israeli armed forces;
- the transfer of Mr. Barghouti from Ramallah, a territory under Palestinian sovereignty and occupied by the Israeli army, to Israeli territory to be tried in Tel Aviv was in breach of the Fourth Geneva Convention;
- the arrest and trial of Mr. Barghouti violated his parliamentary immunity deriving from his status as a member of the Palestinian Legislative Council.

All those objections were rejected, first by Judge Gurfinkel ruling on the provisional detention, in a first judgment of 12 December 2002, then by the three-judge panel deciding on the merits of the case, in its judgment of 19 January 2003. In substance, the judges responded as follows:

- on the Oslo Accords: first, the Palestinian Authority does not assume the competence transferred to it for prosecuting and punishing terrorists, which precludes reliance on the Accords; second, the competence given to the Palestinian Authority is not exclusive of the competence of the State of Israel and its courts to ensure the security of Israelis and to pass judgment on crimes against Israelis, wherever committed;
- the accused does not meet the criteria for prisoner-of-war status, having acted as an unlawful combatant liable to penal sanctions under domestic law; furthermore, the attacks against civilians of which he is accused are war crimes punishable by the courts of the countries in which such crimes were committed;
- the international customary rules relating to armed conflicts authorise the Israeli armed forces, for the purpose of protecting Israel's civilian population, not only to go and fight those threatening it wherever they may be but also to arrest and detain them;
- on the Fourth Geneva Convention: it does not prohibit individual transfers of prisoners but mass-scale deportations of populations; furthermore, in accordance with the case-law of the Supreme Court, it cannot be invoked since it has not been incorporated in international customary law and has not been introduced into Israeli domestic law either;
- there is no parliamentary immunity preventing the trial of the accused.

To protest against those decisions, Mr. Barghouti decided to refuse to reply to the Court and asked his lawyers to withdraw. The second part of the trial thus took place without any cooperation from the accused.

* *The withdrawal of the defence*

Persisting in his refusal to recognise the right of the Israeli courts to try him, Mr. Barghouti instructed his lawyers to withdraw from the trial.

The Court then asked the Public Defender's Office to ensure his defence by assigning him a duty defence lawyer. But Mr. Barghouti informed that lawyer that, in consultation with his own counsel, he had decided to adopt an entirely passive attitude and avail himself of his right to silence, and therefore refused any assigned counsel. He added that, should the Court oblige the Public Defender's Office to assist him, his instructions would be to forbid him any participation in the debates.

The Public Defender's Office then asked to be relieved of its task, arguing that the accused already enjoyed legal assistance and was entitled to choose his line of defence. The Court rejected that request on the grounds that, despite the refusal of the accused, a lawyer was still needed to ensure the respect of his rights and forestall any judicial error.

The defence thus adopted a strictly passive attitude. Mr. Barghouti refused to question the 100 or so prosecution witnesses. He refused to discuss the evidence laid against him. On the merits, he merely contested any link between him and the attacks listed in the indictment. The lawyers ha had designated remained present but seated among the public.

* *The closure of the debates*

On 24 August 2003 Ms. Chen presented the prosecution conclusions by going back over and developing the terms of the indictment. One month later, at the hearing of 29 September 2003, Mr. Barghouti was invited to present his own defence. Speaking in Hebrew for an hour, he denounced the political nature of his trial and refused to reply point by point to the prosecution. Instead he set out his view of relations between Israel and Palestine, inviting Israel to choose between coexistence with a Palestinian State and coexistence of two peoples within a single State. Renewing his support for resistance against the Israeli occupation and for the Intifada, he said he was opposed to murders of innocent victims and concluded with an announcement that he would soon be free.

At the close of that hearing, the Court adjourned the case for consideration. No judgment has as yet been handed down. The date for the judgment is not known and will probably, according to the indications gathered, only be known at very short notice.

II - Discussion: a trial falling short of international standards

In the opinion of the persons present at the debates in the Tel Aviv District Court, the hearings were conducted in a relatively impartial climate (apart from a few incidents which we will elaborate on). However, the overall conclusion is that the manner in which the phase leading up to the trial was conducted precluded any possibility of a fair trial.

Owing to the fact that Mr. Barghouti was captured in Palestinian territory during a military operation, before being held incommunicado for several weeks, during which time accusations against President Yasser Arafat "leaked out", the Israeli authorities not only ran the risk of holding a trial in which the political controversy almost inevitably overshadowed the legal debate, but also the risk of a trial based on an investigation using questionable methods and hence on flimsy evidence.

The purpose of this report is not to judge the political interests that came into play during the trial, but to examine the how the Israeli authorities treated the person detained and prepared the trial against him, from an exclusively technical perspective, in the light of relevant international standards. These standards were often clearly disregarded.

1. Mr. Barghouti's arrest and transfer to Israel

It is likely that Mr. Barghouti's arrest had been decided on several months in advance since a legal framework had been prepared, as evidenced by the arrest warrant issued by the Magistrate's Court of Jerusalem back in September 2001.

During my meeting with Ms. Chen, my counterparts insisted strongly that the procedural rules had been scrupulously respected. In particular, they stressed that the procedure had been conducted by the police and not by the military authorities and similarly that Mr. Barghouti would eventually be tried by a common law judge and not by a military tribunal.

However, Mr. Barghouti was arrested by soldiers and the army does not fall under the police service. The army intervened, in this case, outside Israeli borders since the town of Ramallah, where Mr. Barghouti was arrested and in which he is an MP, is located, according to the Oslo II Accords, in "Zone A", that is, an autonomous Palestinian zone, from which the Israeli army had agreed to withdraw in 1995 and whose sovereignty (including police and judicial sovereignty) is exercised by the Palestinian Authority.

Although the Tel Aviv District Court decided otherwise, this manner of doing things appears to directly contravene both the Oslo Accords and the Fourth Geneva Convention.

(a) Regarding the Oslo Accords

The Oslo II Accords represented an important step towards the creation, as was then envisaged by both parties in the near future, of a Palestinian State, entailing the transfer to the Palestinian Authority of important prerogatives of sovereignty linked notably to security and the administration of justice.

By virtue of the Oslo Accords, the onus is on the Palestinian police and judicial authorities to ensure security in the region by judging crimes committed in Palestinian territory, and notably by sanctioning attacks aimed at Israel from Palestinian territories.

In Mr. Barghouti's case, if indeed the Israeli authorities had been in possession of evidence to warrant his arrest, it would appear that they did not communicate any such information to the Palestinian institutions, which were therefore denied the opportunity of examining these charges and deciding whether there was reason to take the matter further.

The response given by the judges of the Tel Aviv Court includes an admission that the Oslo Accords were not respected. It justifies non-compliance with the Accords by contending firstly that the Palestinian side has not respected the Accords either since, according to the judges, the Palestinians support rather than sanction terrorism; and, secondly, that the Accords do not establish the exclusive competence of Palestinian courts, but permits the coexistence of the rival competence of Israeli courts in cases provided for by domestic law.

In other words, the judges found that the Israeli law that provided for the competence of Israeli courts to judge crimes committed against Israeli citizens should continue to be applied notwithstanding the Oslo Accords.

The purpose of this report is not to make a determination on the interpretation of Israeli law and, in particular, determine whether the rules of jurisdictional competence provided for in domestic law before the Oslo Accords should be considered to have been modified by those Accords, as the defence maintained, or not, as the Court found.

But from an international law perspective, which alone is of relevance to this report, one cannot help noting that in Mr. Barghouti's particular case, the Israeli military and judicial authorities chose to disregard the provisions of the Accord of 28 September 1995, whereby maintaining order and security in "Zone A" falls to the Palestinian side (Articles XIII and XVII), including trying criminal cases (Annex III, Article 1).

The Tel Aviv District Court alleged that the Oslo Accords had been infringed by the Palestinian Authority itself, as though to justify its decision, thereby implying that the Accords had effectively become a dead letter. The Oslo Accords, including the Accord of 28 September 1995, are nevertheless still binding and in force according to the Israeli Supreme Court, which applied it, for example, in the ruling of 3 September 2002 (case HCJ 7015/02 and 7019/02).

(b) Regarding the Fourth Geneva Convention

This Convention of 12 August 1949 is relative to the "*protection of civilian persons in time of war*" and is applied notably to situations where a territory is occupied by the army of a foreign State (Article 2). Israel acceded to the Convention on 6 January 1952.

Article 49 of the Convention will be cited in full for it is in no way ambiguous and requires no interpretation: "*Individual or mass forcible transfers, as well as deportation of protected persons from the occupied territory to the territory of the Occupying Power or that of any other country, occupied or not, are prohibited, regardless of their motive*".

It is very clearly stipulated that the Occupying Army is prohibited from transferring a prisoner from the occupied territory to Israeli territory, "*regardless of their motive*".

If the Tel Aviv District Court had applied this rule, it would have necessarily had to conclude that Mr. Barghouti's transfer from Ramallah to Jerusalem constituted a violation of the Fourth Geneva Convention. It should be noted that, pursuant to Articles 146 and 147 of the Convention, such infraction should be subject to penal sanctions.

In order to obviate this rule, the judges of the Tel Aviv District Court applied the jurisprudence of the Israeli Supreme Court, whereby Article 49 cannot be invoked in Israeli courts but, moreover, supposedly does not prohibit the transfer of individual prisoners.

On the first point (inability to invoke the Geneva Convention in court), the State of Israel is, in fact, a "dualist" State as far as international public law is concerned insofar as ratified treaties and conventions bind the State and hold it to its commitments vis-à-vis the international community but cannot be invoked in court if they have not been enacted and incorporated in domestic law. However, the courts spontaneously apply the provisions of international custom, which are considered part and parcel of Israeli law. But prohibiting the transfer of prisoners from an occupied territory to the territory of the occupying power is not regarded as a customary prohibition. For this reason, the courts, including the Supreme Court, continue to consider that an accused individual cannot rely upon Article 49 of the Geneva Convention.

This restriction constitutes an obstacle before the courts alone. At the international level, as was said, breaches of the Convention engage the responsibility of the State of Israel vis-à-vis the international community and there is nothing to prevent the Inter-Parliamentary Union from noting that and being concerned about it.

In the courts themselves, this restriction, in fact, is of little material consequence since the Supreme Court gave its own interpretation of Article 49 of the Fourth Convention in 1988 in an Afu ruling (HCJ 785/87 of 18 April 1988) that this provision actually prohibits only the mass deportation of civilian populations. This interpretation refers to the historical context in which the provisions of the Fourth Geneva Convention were adopted (the years immediately following the Second World War and the mass deportations resulting from that conflict) and concludes that the authors of the Convention could not provide for the case of an isolated individual committing acts of hostility and terror.

This interpretation by the Supreme Court was adopted in turn by the rulings of the Tel Aviv District Court in Mr. Barghouti's case (ruling on the arrest of 12 December 2002 and ruling on the legal basis of the case of 16 January 2003). The judges thereby considered that, even if Article 49 of the Fourth Convention could be directly applied by Israeli law, which in their view it cannot, its provisions would not support Mr. Barghouti's defence.

The position of the Israeli authorities (including its judicial authorities) regarding Article 49 of the Fourth Convention openly contradicts the provisions of the text cited above in full to show that it required absolutely no interpretation whatsoever. The authors of the Convention expressly provided not only for the case of mass deportations but also, and just as expressly, for the case of the forcible transfer of individuals.

For this reason, in Israel itself, the Afu jurisprudence is criticised by a number of authors and even by some judges.

But regardless of the jurisprudence prevailing in Israeli domestic law, the fact remains, as we said earlier, that breaches of the Fourth Convention engage Israel's responsibility in the international legal sphere, which is something that the Inter-Parliamentary Union is in a position to point out and regret.

The theory that Article 49 prohibits mass deportations alone and authorises the individual transfer of prisoners is not subscribed to by any international organisation. In fact, it contradicts the doctrine of the International Committee of the Red Cross.

It is important to emphasise that Article 147 of the Fourth Convention lists the acts which it considers to be "grave breaches". This list includes, notably, the "*unlawful deportation or transfer or unlawful confinement or ... depriving (a protected person) of the rights of fair and regular trial prescribed in the present Convention*". Pursuant to Article 146, the High Contracting Parties are bound to provide effective penal sanctions for persons committing these grave breaches.

The IPU Committee on the Human Rights of Parliamentarians is therefore in a position to note that Mr. Barghouti's transfer from Ramallah (which is an occupied territory according to the United Nations Security Council's constant analysis) to Jerusalem and then to Tel Aviv for trial constitutes a grave breach of the Fourth Geneva Convention.

2. The right to be informed without delay of the reasons for one's arrest and detention and to be informed of one's rights

According to Article 9(2) of the International Covenant on Civil and Political Rights, ratified by Israel in 1991, "*Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him*".

I was told that Mr. Barghouti was officially notified of his arrest not at the time of his arrest by the army but at the end of the day, upon arriving at the Russian Compound detention centre when he was handed over to a police officer.

I asked Ms. Chen, from the State Attorney's Office, if it had been then that Mr. Barghouti was informed of the reasons for his arrest and of his rights. I was not given a clear answer. Ms. Chen stressed that Mr. Barghouti had been able to meet unconditionally with his attorney during his third day of detention and that he was very aware of his rights, particularly as he had already been arrested in the past. But it is not for the authorities to assess whether a person is sufficiently informed and dispense with informing him of his rights. Although access to a lawyer is in itself the right of persons deprived of their freedom, that does not entitle the authorities to assign to the lawyer the obligation of informing detained persons of their rights, particularly since several days may pass before they meet their lawyer, as was the case here.

In any event, the information to which detained individuals are entitled is not confined to their rights, but should also extend to the reasons for their arrest, and should be communicated to them at the time of their arrest. Mr. Barghouti was apparently told the reasons for his arrest when it was notified to him at the end of the day on 15 April 2002, i.e. several hours later. The charges laid against him, murder and attempted murder at the time, were communicated to him when he appeared before the judge for the first time on 22 April 2002.

3. Right to be brought promptly before a judge

Article 9(3) of the International Covenant on Civil and Political Rights provides that "*Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release*".

The purpose of this first appearance before a judge is to ensure an impartial and independent review of the legality of the arrest and detention and to determine whether the detention needs prolonging.

In Mr. Barghouti's case, Mr. Boulus told me that the accused first appeared before a judge only on 22 April 2002, a week after his arrest, and that he appeared without the presence of his lawyer, who was heard separately and was denied access to the file.

I asked Ms. Chen about the delay in the court appearance. During my interview with her, she was unable to verify in the case file – which she did not have in its entirety – the reply to each of my questions. Likewise with this question. Ms. Chen told me that the file contained the minutes of the hearing held on 22 April 2002, but she thought that a first court appearance had been held 96 hours after the arrest.

As I did not have access to the file, I was unable to verify that point. I do wish to observe, however, that the ruling handed down by the Supreme Court of 14 May 2002 mentions a decision delivered on 22 April 2002 prolonging Mr. Barghouti's detention, but fails to mention any previous ruling.

A delay of one week seems excessive in the light of Article 9(3) of the Convention, even though the expression used, "within a reasonable time", does not set a deadline or stipulate a maximum number of days. But it is generally considered that it should not exceed a few days and for purposes of comparison, the following delays were found to be excessive:

- One week: the Human Rights Committee, established by the Covenant, considered a delay of one week to be excessive². In that case, the detained individual risked the death penalty, but we should note that Mr. Barghouti risks the maximum penalty provided for by Israeli criminal law, life imprisonment.
- One week: the Inter-American Commission on Human Rights criticised Cuba's Criminal Proceedings Act because detained individuals could theoretically remain deprived of their freedom for one week before appearing before a judge³.
- 4 days and 6 hours: The European Court of Human Rights considered that such a delay in bringing a detained individual before a judge was unsatisfactory⁴.

If it had been confirmed that Mr. Barghouti's first appearance before a judge took place only a week after his arrest, that would mean that he remained in the hands of the investigators during all that time without any

² Mc Lawrence versus Jamaica, 29 September 1997, para. 5.6.

³ Seventh report on the human rights situation in Cuba, 1983.

⁴ Brogan et al. versus United Kingdom, 29 November 1988, para. 62.

jurisdictional oversight. The delay could therefore be criticised as excessive and depriving Mr. Barghouti of a fundamental guarantee provided for by international law.

It must also regrettably be pointed out that, for his appearance before the judge to prolong his detention, Mr. Barghouti was not allowed to be accompanied by his lawyer as a result of the existing order prohibiting him from communicating with his counsel.

Mr. Boulus explained that, for that hearing, Mr. Barghouti and his lawyer were made separately to enter the courtroom where the military judge was presiding. It was located within the Russian Compound itself, the detention centre where Mr. Barghouti was imprisoned, without any possibility of communicating with his counsel or preparing for the hearing.

In these conditions, the guarantees provided in Article 9(3) of the Covenant were breached.

4. Incommunicado detention

As mentioned earlier, Mr. Barghouti was allowed to see his lawyer on 18 April 2002, three days after his arrest. Subsequently, the police officer in charge of the investigation decided to prohibit any other meeting and this decision was extended until 15 May.

Mr. Boulus contested these decisions twice before the Supreme Court, which on both occasions rejected his request, arguing that such decisions were justified by the nature of the inquiry and in the interests of security in the region⁵. The Supreme Court delivered these two rulings without the possibility of discussion after hearing the reasons advanced by the investigators and after examining the documents presented by them without any of these being presented to Mr. Boulus or being open to discussion. The ruling of 3 May 2002 states: "We are convinced that, in the light of the circumstances of this case, security reasons and the nature of the investigation, it was impossible for us to reveal and explain to the defence counsel the reasons given to us". The second request followed the same procedure and resulted in the ruling of 14 May 2002.

When she met with me, Ms. Chen assured me that the suspension of all contact between the arrested individual and his/her lawyer was a measure provided for by Israeli law not only for Palestinian but also for Jewish prisoners.

The fact that a debatable measure is applied in many cases does not make it acceptable, and the status or religion of the individuals subjected to such a measure has absolutely nothing to do with its legality by reference to international standards.

The Human Rights Committee, established by the Covenant on Civil and Political Rights to monitor compliance, considers that all arrested persons shall be entitled to legal counsel immediately⁶. This right cannot be exercised just once and then revoked as it was in this case.

This suspension decided by the authorities in charge of the investigation and approved without the possibility of discussion by the Supreme Court placed Mr. Barghouti in a situation of incommunicado detention that is difficult to justify. It is impossible "blindly" to accept the justification admitted by the Supreme Court with no questions asked. The idea of a jurisdictional authority overseeing an administrative or police-related decision means by definition that such oversight must be transparent. The fact that the judges refused to inform the lawyer of the reasons why he was barred from seeing his client means that their decision cannot, in my opinion, be taken into consideration as validly justifying these methods.

Several institutions have condemned prolonged incommunicado detention. The United Nations Commission on Human Rights stated that such a measure facilitated torture and could itself constitute a form of cruel, inhuman or degrading treatment⁷. The Human Rights Committee considered that it could constitute a breach of Article 7 of the Covenant (prohibiting torture or cruel, inhuman or degrading treatment) or Article 10, which states that: "*All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person*"⁸.

⁵ Decisions of 3 May 2002 and 14 May 2002, cited earlier.

⁶ Observations on Georgia, 9 April 1997, para. 28.

⁷ Resolution 1997/38 para. 20.

⁸ Albert Womah Mukong versus Cameroon, 21 July 1991, and Megreisi versus Libya, 23 March 1994.

In Mr. Barghouti's case, the Israeli authorities extended the incommunicado detention for a long period, one month. During that time, they allowed Mr. Boulus on one occasion to observe his client walking in the courtyard of the detention centre in order to disprove rumours that Mr. Barghouti had been hospitalised. Subsequently, they let the MP meet with his lawyer on 7 May, under the supervision of a security guard, but they were not allowed to discuss the case.

At the same time, the Shin Beth (Israeli internal security services) published in the press that Mr. Barghouti had confessed to involvement in various terrorist attacks and had even implicated the President of the Palestinian Authority, Mr. Yasser Arafat. Mr. Barghouti denied those claims as soon as he was given the opportunity to do so at his public trial.

The duration of his incommunicado detention already constituted a grave violation of Mr. Barghouti's rights. It is surprising that the ban on communicating was valid only for Mr. Barghouti and that the detainee to do for a period of time when he could not react to what was being said about him, either publicly, possibly through his lawyers, or even just to the latter.

The authorities have a price to pay for resorting to such practices: it greatly discredits the evidence they claim to have gathered during those weeks of interrogation, which nevertheless constitutes one of the bases of the charge, particularly since Mr. Barghouti has claimed that he was subjected to cruel, inhuman and degrading treatment during the interrogations. Those claims were not investigated.

5. Allegation of cruel, inhuman or degrading treatment

While Mr. Barghouti was held incommunicado, his lawyer, Mr. Boulus, filed submissions before the Supreme Court in the course of the two appeals mentioned earlier, expressing fear regarding the treatment that would be meted out to him, particularly in relation to receiving the care he might need in consideration of his health status, and fear that he would be interrogated using the *shabeh* method, which combines sleep deprivation with preventing the prisoner from relaxing (being forced to sit on a chair where it is impossible to stay in a stable position – and Mr. Barghouti was later to speak of nails sticking through the back of the chair to prevent him from leaning back on it) and constant interrogations lasting several hours or days without any contact with the outside world (in addition to being denied the right to have a lawyer present).

Before the Supreme Court, the authorities declared that Mr. Barghouti was receiving all the care he needed, and that the investigations were being conducted without bringing any pressure to bear on the prisoner.

They nevertheless submitted that there were good reasons for refusing the prisoner the right to a visit by his lawyer, as we have seen, and implicitly admitted that they had deprived the prisoner of sleep, set out in a statement in which reference was made to the case law of the Supreme Court.

This is a reference to a judgment handed down on 6 September 1999 by the Supreme Court, drawing a distinction between sleep deprivation intended to harm the prisoner, which is prohibited, and sleep deprivation to meet the needs of interrogation, which is tolerated: "*Indeed, a person undergoing interrogation cannot sleep as does one who is not being interrogated. The suspect, subject to the investigators' questions for a prolonged period of time, is at times exhausted. This is often the inevitable result of an interrogation, or one of its side-effects. This is part of the "discomfort" inherent to an interrogation. This being the case, depriving the suspect of sleep is, in our opinion, included in the general authority of the investigator*" (para. 31).

This Supreme Court decision was criticised by the United Nations Committee Against Torture at its 29th session (November 2001): "*The court prohibits the use of sleep deprivation for the purpose of breaking the detainee, but stated that if it was merely incidental to interrogation, it was not unlawful. In practice, in cases of prolonged interrogation, it would be impossible to distinguish between the two conditions*".

In the case of Mr. Barghouti, the state attorney did not deny before the Supreme Court that he had been deprived of sleep, but he said that the programme of investigations allowed him to sleep "*for a reasonable number of hours*" (Order of 3 May 2002). During the second appeal before the Supreme Court, the authorities declared that Mr. Barghouti could "*sleep for a reasonable number of hours*", and in its decision of 14 May 2002, the Court stated that it had examined – in the absence of both Mr. Barghouti and his lawyer – the conduct of the inquiries and had been "*convinced that no inadmissible measure had been used against the appellant*". The Court failed to indicate what, in its opinion, would make a distinction between an admissible and an inadmissible measure, but the Order of 14 May 2002 was drafted by the President of the Court, Mr. Barak, who was also the drafter of the decision of 6 September 1999 which concluded that "*depriving the suspect of sleep is, in our opinion, included in the general authority of the investigator*".

When Mr. Barghouti was able to talk freely to his Counsel at the end of May 2002, he said that he had been subjected to *shabeh*. He also claimed that his interrogators had threatened to kill both him and his son.

When I asked Ms. Chen how these allegations had been dealt with, she replied that Mr. Barghouti had not made them before the Court, particularly the allegation about sleep deprivation, as he ought to have done. Had he raised the issue of the conditions under which he was being interrogated, the matter would have been discussed before the Court, which would have devoted the time needed for it. The interrogators would have been called to testify, and Mr. Barghouti and his lawyers would have had the opportunity to question them. Had these inquiries conducted before the Court confirmed Mr. Barghouti's allegations, that would have affected the outcome of the trial, and more specifically all the statements that had been made by Mr. Barghouti as a result of the use of these methods would have been disregarded.

Ms. Chen expressed regret that Mr. Barghouti had turned to the media or to such organisations as the Inter-Parliamentary Union to complain about the treatment while failing to use the procedure provided by the law.

But the argument that the most appropriate procedure for investigating allegations of mistreatment is for the prisoner to raise those allegations in the course of the trial in which he is the defendant is a dubious one. For it means, in effect, that allegations of maltreatment can only be investigated if the defendant agrees to cooperate in his own trial and, ultimately defend himself in the way that the prosecution wants him to defend himself. Whatever one may think of the defence system adopted by Mr. Barghouti, the defendant in a criminal trial must remain totally free to choose whatever method of defence he sees fit. Mr. Barghouti has chosen to challenge the jurisdiction of the Tel Aviv District Court on highly relevant grounds under international law. Even though the Court rejected those grounds, Mr. Barghouti decided subsequently to refuse to take part in the trial, answer any questions put to him, and cross-examine any witnesses.

For the allegations of maltreatment to be examined in the manner indicated by Ms. Chen, Mr. Barghouti should have asked the Court to disregard the statements made to the investigators during the inquiries, on the ground that they had been obtained as a result of unacceptable pressure. This would have meant that Mr. Barghouti would have had to bring up his statements again, and also take part in the debate on the quality of the evidence before the Court, which would not have been compatible with his decision to deny the jurisdiction of the Court.

In reality, the only appropriate way for allegations of maltreatment to be examined is to open an inquiry into them, as provided, for example, by Article 12 of the United Nations Convention against Torture, which was ratified by Israel in 1991. One cannot accept the proposition that this inquiry can only be conducted in the course of a trial against the defendant.

6. Access to a lawyer and the right of defence

According to Article 14(3) of the International Covenant on Civil and Political Rights, any person accused of a criminal offence has the right "*to communicate with counsel of his own choosing*" (para. (b)) and "*to defend himself [...] through legal assistance of his own choosing*" (para. (d)). Exercise of this right, which the Israeli authorities ought to have guaranteed to Mr. Barghouti, has been thwarted on various occasions.

(a) Restrictions on communications between Mr. Barghouti and his counsel

The refusal to permit Mr. Barghouti to meet his lawyers between 18 April and 15 May 2002 has already been examined above. Mention has already been made of the exception was made to this ban on 7 May when Mr. Boulus was able to meet his client, but only in the presence of a security guard and with a prohibition on making any reference to the case. These restrictive conditions are in clear violation of Article 14 (3) (b) of the aforementioned Covenant, which guarantees freedom of communication between the accused and his counsel. According to the construction placed on this text by the Committee on Human Rights, it "*(requires) counsel to communicate with the accused in conditions giving full respect for the confidentiality of their communication*" (General commentary 13(9)).

Mr. Barghouti's French lawyers have encountered the greatest difficulties whenever they have asked to be able to see him, even though the Israeli Ambassador to France had said that it would be possible. Although a first meeting was able to be held on 5 September 2002, the second meeting on 21 November 2002 in Tel Aviv prison was cut short after one hour by a prison security official, who was apparently furious because the French lawyers had been let in.

Lastly, on 29 September 2003 neither Ms. Halimi nor Mr. Boulus was given permission to meet Mr. Barghouti in Beer Sheva prison in the Negev. Mr. Boulus has told me that he has been refused visits on several occasions since the end of the trial, and that he has reported this to the President of the Israeli Bar Association.

Lastly, the meetings in the prison have not been confidential, but have taken place under the supervision of a prison guard.

(b) Prohibition on advocates who are not members of the Israeli Bar from taking part in the Court debates

Neither Ms. Halimi, nor Mr. Voguet and Mr. Skhirat have been permitted to take part in the Court hearings. The French lawyers were only permitted to sit in the public gallery. This situation seems to be dictated by current Israeli legislation.

(c) Pressure on the lawyers

On one of her visits to Israel as part of defence remit Ms. Halimi was detained on arrival at Tel Aviv airport and interrogated for two hours. Her case papers were taken away from her and examined, and even photocopied, in violation of the rules governing professional confidentiality. Those intimidating measures prompted an official protest from the Paris Bar through the Bar President.

Mr. Boulus has told me that the prison authorities lodged a complaint against him with the Israeli Bar Association, accusing him of having acted as an intermediary between Mr. Barghouti and an Israeli newspaper which had published an interview with him while he was imprisoned (a charge that Mr. Boulus has denied).

These events do not lead to the conclusion that such severe systematic pressure is being brought to bear on him that it jeopardises his defence, but they are deplorable and demonstrate the tense climate in which professional lawyers have to perform their services.

We would recall that in the General Comments on the provisions of the International Covenant on Civil and Political Rights, the Committee on Human Rights emphasised that lawyers should be protected from all "*restrictions, influences, pressures or undue interference from any quarter*" (general comment 13, para. 9).

7. The debate in court

(a) Publicising the trial proceedings

According to journalists and the observers who were able to attend the trial, the climate was sometimes very tense.

On several occasions the press reported incidents, insults, the expulsion of the accused, and protests from the public against the lawyers.

The Israeli authorities hoped to give this trial considerable publicity. The media coverage was huge. Rostrums were installed outside the courtrooms so that the spokespersons of the judicial and government authorities were able to talk to the press. Numerous victims of bomb attacks and their families were present in Court.

Yet despite this wish for wide publicity to be given to the trial proceedings, it would appear that access to the courtroom was not so easy for everyone.

Mr. Barghouti's wife and son, for example, failed to obtain permission to leave Ramallah to attend the trial. An observer from the International Federation for Human Rights was refused entry into Israel when she arrived to attend a court session in early October 2002.

Mr. Boulus and Ms. Halimi have told me that during the early sessions of the trial, access to the courtroom was difficult even for the lawyers, let alone for the other independent observers who had come to witness the trial. At one of the first sessions, Mr. Barghouti and his lawyers were mobbed, and had to be removed through an emergency exit.

After that, a modus vivendi was established between the court authorities and the defence. Several places were set aside for the defence in the courtroom, two other rooms were linked by video to the courtroom for the general public and the journalists, except for those who were individually authorised to enter the courtroom itself.

(b) Lack of presumption of innocence

An incident occurred during Mr. Barghouti's first appearance, on 5 September 2002, before the panel presided over by Ms. Zerota.

After Mr. Barghouti had described himself as a "*fighter for peace for both peoples*", she interrupted him and said "*one who fights for peace doesn't turn people into bombs and kill children*".

Such a statement was most surprising coming from a judge who has the responsibility of ruling on the guilt of the defendant, and who, from the very outset of the trial, expressed a categorical opinion on the case. Mr. Barghouti probably should have been entitled to ask his judge to withdraw from the case because of this failure of her duty to show impartiality.

Another similar incident occurred outside the courtroom which necessarily upset the tranquillity of the proceedings: in July 2003, some newspapers announced that the Israeli Government was tempted to negotiate the release of Mr. Barghouti under a prisoner exchange scheme, and that the Israeli Attorney General, Mr. Elyakim Rubinstein, had written to the Prime Minister to oppose this, declaring, in a letter which was made public, that Mr. Barghouti was a "*first-rate architect of terrorism*". Once again, this statement prejudged the outcome of a trial that was still ongoing, and demonstrated contempt for the presumption of innocence, which is surprising coming from a person in his position.

(c) The evidence adduced

In support of the charges, the State Attorney's Office filed above all the statements and declarations made by the accused and by a few other individuals.

I have not been able to gain access to the material evidence adduced, which essentially comprises documents seized by the army in Mr. Barghouti's office. Mr. Boulus explained to me that they were mainly letters addressed to Mr. Barghouti in his capacity as a parliamentarian, and that no document originated by Mr. Barghouti had implicated him in the acts of which he was being accused.

The prosecution had called some 100 witnesses. The transcripts of the sessions, which were given to me in Hebrew and which I was able to consult with the assistance of a sworn translator, Mr. Bitar, stated that 96 prosecution witnesses had been heard.

This figure should be seen in proportion, because 63 of these 96 people were investigators or individuals associated with the investigation into Mr. Barghouti, or investigations into the attacks that had been ascribed to him, and who were therefore unable to give a personal testimony regarding his involvement.

Furthermore, 12 of these witnesses were victims or witnesses of bomb attacks and had given their account of them, but they had no information regarding the personal involvement of the accused.

According to the prosecution, only 21 of the prosecution witnesses were actually in a position to testify directly regarding Mr. Barghouti's role in these attacks. But none of these 21 individuals in fact accused him. About 12 of them explicitly told the court that he was not involved. Most of them quite simply refused to answer the questions of the court, generally on the ground that it had no jurisdiction to judge Mr. Barghouti.

Faced with the refusal of most of the subpoenaed persons to testify, the court had to fall back on the written statements collected by the investigators. I have not had the opportunity to examine these documents but, according to the trial transcripts, some of the subpoenaed witnesses had signed statements when heard by the investigating services, declaring that Mr. Barghouti might have been informed of certain bomb attacks before they had taken place, or that he may have sent money to finance the attacks, or had ordered the purchase of weapons for the attacks. Several witnesses told the court that these statements had been obtained under duress.

8. The conditions under which Mr. Barghouti has been detained until now

Today, and ever since the end of this trial, Mr. Barghouti has been held at the Beer Sheva prison in the Negev Desert in southern Israel (the region furthest away from his family, who live in Ramallah).

He is being kept in solitary confinement, and the only visits permitted are from his lawyers (who sometimes encounter the difficulties mentioned in paragraph 6(a) above). With the sole exception of one visit from his wife on 17 May 2002, he has not been able to see any family member since his arrest.

He is confined to a tiny cell (measuring about 140 x 180 centimetres) which he is not permitted to leave, even to take his meals, and is only allowed 45 minutes' exercise a day in a very small yard.

Mr. Barghouti is suffering from pulmonary problems, and he has sometimes had serious difficulties in gaining access to medical treatment.

Conclusion

This report is addressed to the Committee on the Human Rights of Parliamentarians, for its session of 18-22 April 2004. As yet there is still no news about the verdict of the Tel Aviv District Court, which has reserved judgment since 29 September 2003.

According to the case papers, from Mr. Barghouti's arrest on 15 April 2002 to the trial itself, the Israeli authorities and the prosecution had tried to turn it into a media event, a symbol, putting on trial one of the men who epitomise the Intifada, and presenting him as a terrorist.

From the beginning of the investigations until the final day of the trial, the prosecution put almost as much effort into staging a media event as it did into working on the legal aspects:

- by organising information leaks, claimed to have come from the interrogations of Mr. Barghouti, at a time when he had been held incommunicado, so that neither he nor his lawyer could possibly have answered any questions;
- by deciding to organise a public trial before the Tel Aviv District Court, rather than a trial behind closed doors before military judges, as has generally been the case in the past for other individuals arrested by the Israeli army in the Occupied Territories;
- by staging the trial as a major media event, selectively admitting and accompanying members of the public, and organising press contact points even in the precincts of the Court.

It is true that of all the Palestinian prisoners currently being detained by Israel, Mr. Barghouti is the most senior member of the Palestinian Authority hierarchy, and is said to be close to Mr. Arafat.

Nevertheless, this has also been the result of the Israeli Government's decision to make his capture and subsequent trial, into a political as well as a judicial or security issue. It is therefore hardly surprising that this has led to excesses, such as the following:

- the statement by the Israeli Deputy Minister of Homeland Security saying that Mr. Barghouti "*thoroughly deserves death*";
- the statement by the Attorney General calling him a terrorist;
- the way in which his lawyers have been prevented from meeting him, and particularly the long interrogations to which his French lawyer, Ms. Halimi, was subjected on her arrival at the airport;
- Israel's refusal to allow in an observer from the International Federation for Human Rights.

These incidents have quite obviously been facilitated by the climate that has made this trial increasingly more a political, rather than a judicial, matter, but also by a breakdown of Israeli law placing it in breach of international law, by authorising prisoner transfers (which is clearly prohibited by the Fourth Geneva Convention) or tolerating interrogation methods which should be prohibited, in addition to the laws making it possible to keep a prisoner incommunicado for excessively long periods.

The Israeli authorities are right to point out that their country is up against blind terrorism posing serious security problems that they have to address. This report is not the right place to discuss the origins of this terrorism, or ways of putting an end to it, but it does illustrate that the methods chosen to deal with it have been inconsistent with the rule of law, and sight has been lost of such equally essential principles as the absolute priority that must under all circumstances be given to respect for the physical integrity of prisoners.

The numerous breaches of international law recalled in this report make it impossible to conclude that Mr. Barghouti was given a fair trial.

Most of the persons contacted are convinced that Mr. Barghouti will receive a severe sentence, but all are equally convinced that the verdict will have no legitimacy because it will have been dictated far more by intense media pressure and political interests than by any rigorous application of procedures respecting the integrity of the defendant and his right of defence.

The Barghouti case has very clearly demonstrated that, far from bringing security, the breaches of international law have, above all, undermined the authority of Israeli justice by casting discredit on its conduct of investigations and the procedures used.