ACTION IO-00

INFO LOG-00 EEB-00 AP-00 AID-00 AMAD-00 CIAE-00 INL-00
DODE-00 WHA-00 EAP-00 DHSE-00 EUR-00 UTED-00 TEDE-00
INR-00 LAB-01 L-00 NEA-00 DCP-00 NSEA-00 ISN-00
NSCE-00 OIC-00 OIG-00 NIMA-00 PA-00 GIWI-00 PRS-00
P-00 ISNE-00 DOHS-00 SP-00 IRM-00 SS-00 STR-00
TRSE-00 NCTC-00 FMP-00 PRM-00 DRL-00 G-00 SCA-00
SAS-00 FA-00 SWCI-00 /001W

R 111404Z JUL 07
FM USMISSION GENEVA
TO SECSTATE WASHDC 4709
USMISSION USUN NEW YORK

UNCLAS GENEVA 001766

STATE FOR IO-RHS, DRL-MLA, L-HRR

E.O. 12958: N/A
TAGS: PHUM, UNHRC-1
SUBJECT: Enforced Disappearances - #20 in Geneva 2007 Communications Log

1. Mission has received a communication from the Chairman-Rapporteur on the Working Group on Enforced or Involuntary Disappearances, Santiago Corcuera, regarding the implementation of the Declaration on the Protection of All Persons from Enforced Disappearances. This communication has been sent via e-mail to IO-RHS and is #20 on the Geneva 2007 Communications Log.

2. Begin text of letter:

Excellency,

At the request and on behalf of the Chairman of the Working Group on Enforced or Involuntary Disappearances, I have the honour to communicate the following letter addressed to you:

"Excellency,

I have the honour to write to you on behalf of the Working Group on Enforced or Involuntary Disappearances, which held its 82nd session from 25 to 29 June 2007 at the Office of the United Nations High Commissioner for Human Rights in Geneva.

In the course of the session, the Working Group decided to inform your Government of general allegations it has received in relation to the implementation of the Declaration on the Protection of All Persons from Enforced Disappearances in your country. A summary is
provided in Annex I. Any comments regarding these general allegations should be received by the date given in the next paragraph in order to be included in the Working Group’s annual report.

I would like to take this opportunity to remind your Government that the Working Group will hold its 83rd session at the United Nations Office in Geneva from 21 to 30 November 2007. As such, the Working Group would be grateful if any written information which your Government wishes to submit for the Working Group’s consideration, could be received by 1 October 2007. Information may be submitted at any time of the year, and will be reviewed as soon as it can be processed.

In conformity with its usual practice, the Working Group is prepared to receive representatives of interested Governments during the first three days of its next session, from 21 to 23 November 2007. Should your Government wish to be represented at the forthcoming session, please contact the Working Group’s secretariat at the United Nations Office of the High Commissioner for Human Rights in Geneva (tel: 022 917 9176, fax: 022 917 9006) to schedule an appointment with the Working Group. The dates of subsequent sessions for the coming year may also be requested or found on the WGBID webpage: http://www.ohchr.org/english/issues/disappear.

I remain, Excellency,
Yours sincerely,
Santiago Corcuera Chairman-Rapporteur Working Group on Enforced or Involuntary Disappearances"

I remain, Excellency,
Yours sincerely,
Tanya Smith
Secretary
Working Group on Enforced or Involuntary Disappearances

Annex
General Allegation: USA 07.06.07
The Working Group received information from non-governmental organizations concerning reported obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance.

It was reported that on 6 September 2006, the US President stated that the United States runs a system of secret detention in the "War on Terror". However, US authorities have not disclosed how many individuals were secretly detained.
The United States government has reportedly constructed a wide-ranging detention system for terrorism suspects. It is alleged that this system includes detention in secret US-controlled detention facilities outside the United States.
End of text.
Chammas

NNNN
UNCLASSIFIED

ACTION IO-00
INFO LOG-00 AF-00 AID-00 AMAD-00 CIAE-00 INL-00 DODE-00
WHA-00 PDI-00 EAP-00 EB-00 EUR-00 UTED-00 H-00
TEDE-00 INR-00 LAB-01 L-00 NEA-00 NSAE-00 NSCE-00
OIC-00 OIG-00 OMB-00 NIMA-00 PA-00 GIWI-00 PRS-00
P-00 SP-00 SSO-00 SS-00 STR-00 TRSE-00 FMP-00
BBG-00 IIP-00 PRM-00 DRL-00 G-00 SCA-00 SAS-00
SWCI-00 /001W

P 090830Z MAY 06
FM USMISSION GENEVA
TO USMISSION USUN NEW YORK PRIORITY
SECSTATE WASHDC PRIORITY 9455
AMEMBASSY DHAKA
INFO HUMAN RIGHTS COMMISSION COLLECTIVE

UNCLAS GENEVA 001100

E.O. 12958: N/A
TAGS: PHUM, UNHRC-1
SUBJECT: INFORMAL DISCUSSIONS CONTINUE ON HUMAN RIGHTS COUNCIL

REF: GENEVA 00939

Summary
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1. Norway, Chile, India, Russia, and South Africa hosted informal consultations May 3 to discuss with Geneva missions, NGOs, and OHCHR Secretariat staff the Human Rights Council's (HRC) first session and initial phase of operations. The tone of the meeting was pleasantly cordial and non-confrontational, suggesting that members were on their best behavior in the run-up to the May 9 HRC elections. China stressed that an HRC chair-designate, a provisional agenda, and a plan to extend all mandates should be put in place before the June 19 HRC start date. This reflected the general consensus, which also called for formulating a road map for the first year's sessions, establishing a working group to consider the procedures for the universal periodic review and to review mandates from the Commission on Human Rights (CHR), and holding a dignified, transparent, and all-inclusive first session. The debate on how much substance should be included in the first session continued, but all agreed that there would be little time given the two-week schedule. Several representatives, mostly from European and GRULAC countries, suggested including the five
inter-governmental working groups at the inaugural session. Although there was widespread agreement on the need for a facilitator to guide preparations for the HRC’s first session, many countries preferred to wait until after the May 9 Council elections and the designation of a chair. End Summary.

Widespread Agreement on Many Key Issues

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2. This cross-regional event showcased widespread consensus on the necessity of the following for the first session:

- advance preparations;
- a facilitator (though half of those who spoke wanted this role filled only by the chair-designate);
- focus on short-fuse priorities, including extension of all mandates for one year;
- extension of the Sub-Commission so it can meet in August;
- creation of a flexible road map outlining sessions for the next year;
- strong focus on procedural matters;
- a High-Level Segment with speaking times of 5-10 minutes;
- creation of working groups to develop the universal periodic review process and to review all existing mandates and mechanisms; and
- transparency and inclusion of non-Council members and NGOs.

China Speaks Up

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3. Chinese Counselor Yifan La said the first session should be a structured and dignified affair focused on procedural matters and the creation of a road map for the next year. Pressing issues would be the selection of a Council and chair-designate, a provisional agenda to include the extension of all expiring mandates, and the establishment of a working group to formulate universal periodic review procedures and other mechanisms inherited from the Commission on Human Rights (CHR), including the 1503 complaints mechanism. Functioning rules of procedure should also be in place by the first session. La conceded that it was a "daunting task" but one that the Council would need to undertake "to bury the old Commission." He said all stakeholders should be part of the first session but did not elaborate how they would participate. Participants appeared to share most of China's views, though GRULAC members appeared dissatisfied after La said that China supported drawing lots for the Council chairmanship position or doing it alphabetically, starting with the African Group. Earlier
in the meeting, Brazil had stated that a GRULAC country would claim the chairmanship of the new Council.

UNCLASSIFIED

Fitting Substance into First Session
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4. Many members expressed the need to include some substance in the first session's agenda. A proposal to take action on the five inter-governmental working groups -- Rights of Indigenous Peoples, Enforced Disappearances, Optional Protocol to Economic, Social and Cultural Rights Covenant, Right to Development, and Durban Implementation -- at the inaugural session garnered widespread support from Chile, the Czech Republic, France, Malaysia, Mexico, Portugal, Spain, and Switzerland. Some representatives, most notably Spain, suggested that the adoption of the Draft Convention Against Enforced Disappearances and the Draft Declaration on the Rights of Indigenous Peoples was a forgone conclusion. In separate interventions, Poloff and her Australian counterpart pointed out that a number of countries considered the two at different stages of development and not ready for adoption. Several Asian Group countries, including Indonesia, cautioned the group to refrain from introducing anything controversial during the first session to ensure a smooth launching of the HRC. China reminded member states of how the last CHR session "almost didn't happen" due to disagreements among members and reiterated that all contentious issues should be avoided for the first session. Several countries agreed that there should be a role at the first session for Special Procedures, especially since most of the mandate holders would be in Geneva anyway during the week of June 19 for their annual meeting. Discussion on the exact degree of participation ranged, however, from simply attending the opening ceremony to having the Special Procedures chair make a general presentation to interactive dialogue with all mandate holders.

Chair-Designate As Facilitator
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5. Most countries stressed the urgency of having a facilitator to guide preparations leading up to the June 19 HRC session, but a few countries, most notably China, suggested it would be better to wait for a chair-designate to be determined and let that person facilitate consultations. China said that the host countries at the May 3 consultations were already serving as facilitators, so it would be better to wait for a chair-designate. France and several other
countries said that they could wait for a chair-designate to be selected after the May 9 elections. (Note: Discussions on the margin confirmed that agreement on a chair is still a long way off. End note) Switzerland noted that it was organizing its own cross-regional consultation meeting in Lausanne on May 15 to continue informal discussions on the HRC.

ROBINSON
E.O. 12958: N/A
TAGS: PHUM, UN, PREL
SUBJECT: ICCPR - PREPARATIONS FOR JULY MEETING WITH U.N. HUMAN RIGHTS COMMITTEE

1. This is an action request. See paragraph 2.

2. Mission is requested to transmit to the Secretariat the text in paragraph 3 regarding preparations for the July 17-18 U.S. session before the Human Rights Committee.

3. Begin text.

(Complimentary opening) and refers to the Secretary General’s letter of March 31, 2006 regarding the United States report of its implementation of the International Covenant on Civil and Political Rights and its upcoming meeting with the Human Rights Committee on July 17 and 18, 2006.

The United States is pleased to work collaboratively with the Human Rights Committee and the Secretariat staff to make the July session productive and informative. As part of this effort, the United States will be sending a very large, high-level interagency delegation to the meetings in Geneva. As discussed in the working lunch with the Chairman of the Committee referred to in the Secretary General’s note, the
various commitments by members of this delegation make it impossible to agree for that delegation to be available for a third session, and the Government of the United States appreciates the Committee's understanding on this issue. As further discussed at that luncheon, the United States will be scrupulous in staying within the time limits set by the Committee during the two sessions, to make sure that there is adequate time available to have a thorough discussion of the issues of concern to the Committee.

As the Secretariat is aware, the United States Government will be presenting to the Committee Against Torture its report on its implementation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in May of 2005. As the U.S. government participants in that meeting and the July session are similar and as providing concise and complete responses to the complex issues raised by the Committee involves an intensive and deliberative process within the U.S. government, it will be difficult for the United States to guarantee that its written answers will be available three weeks in advance of the July hearing. That said, the United States will work diligently to provide those answers as much in advance of the July session as is possible. As United States delegation members discussed with the Committee Chairman at the working lunch, the United States will probably not be in a position to provide its answers in French and Spanish, and it understands that no country has yet provided such answers to the Committee in three languages.

The United States will be pleased to inform the Secretary General in writing of the names and titles of the representatives who will represent the United States at the July session.

The United States looks forward to an informative and productive exchange of information and perspectives with the Human Rights Committee in the July meetings and is committed to working collaboratively with the Committee to make that session a success.

(Complimentary closing)

End text.

RICE

NNNN
R 280442Z OCT 05
FM USMISSION GENEVA
TO USMISSION USUN NEW YORK
SECGSTATE WAS HDC 7361
INFO AMEMBASSY PARIS

UNCLAS GENEVA 002613

L/UNA BRANCATO; IO; DRL

E.O. 12958: N/A
TAGS: FR, UNGA;UNHR
SUBJECT: FINAL REPORT ON UNHCR WG SESSION OF FORCED DISAPPEARANCES (SEPTEMBER 12-23, 2005)

1. (U) SUMMARY. The Intersessional Working Group to elaborate a draft legally binding normative instrument completed work on a Convention for the Protection of All Persons from Forced Disappearance and, although there was no consensus, agreed that there was no impediment to consideration of the text by the Human Rights Commission. The U.S. stated objections on several points that will be recorded in the final report of the session. END SUMMARY.

2. (U) The Fifth and Final session of the Working Group to elaborate a draft legally binding instrument on Enforced Disappearance was held in Geneva September 12 - 23, 2005. The U.S. Delegation included Gilda Brancato (L/HRR), Mission Legal Adviser Jeffrey Kovar, Deputy Legal Adviser Paula Barton, Political Counselor Velia DePirro and Human Rights Officer Jan Levin.

3. (U) Overview. The French Chair of the Working Group opened the meetings by announcing that he intended to have the Working Group finish its consideration of issues not taken up at the January session, then go through the whole draft text again for editorial changes only. He stated he would only accept substantial changes if they commanded consensus. Outstanding issues were 1) the role of non-state
actors; 2) the territorial reach of the Right to Know and, finally, 4) the form of the instrument and the nature of the monitoring body. The first of these was resolved with a compromise language formula concerning state action which reflects the international law position of the United States; the second was resolved when China withdrew its proposed article in favor of making an interpretive declaration at the time of ratification. The other two issues consumed much of the two week negotiation. On the final reading, several other issues were raised, including definition, criminal intent, the statute of limitations and "found in" jurisdiction, as well as the defense of superior orders, non-refoulement and the reference to the term "Crimes against Humanity." US Del made statements of position for the record regarding these issues.

4. (U) The Right to Know. How to provide access to information was one of the most controversial issues raised in the negotiations. The Latin countries with some Asian and European allies insisted that a "Right to Truth" be included in the text that would guarantee access by families and other concerned parties to all information related to the possible enforced disappearance of an individual. The United States with the support of several common law countries insisted that the right to information was never absolute, that domestic law in many countries was incompatible with such an absolute right and that there were occasions when there was a legitimate public interest in withholding certain information. US Del attempted to make revisions to both the preambular language of PP7 and the text of Article 24(2). They sought support for the use of the term "Freedom of Information" in the manner that it was used in the ICCPR and in the USG approved resolution on the Right to Truth at the CHR, a formula also compatible with US domestic law. In the end, an important reference to "freedom of information" was included in the preamble, and statements were recorded that the right to truth could only be understood as implemented through a freedom of information system. Nevertheless, we could not achieve the level of clarity desired or changes to Article 24(2). The US Del requested that the record indicate its dissatisfaction.

5. (U) Monitoring Body. Despite a sharp split of opinion in favor of an optional protocol to the ICCPR and use of the Human Rights Committee (HRC) as the monitoring mechanism, it was clear from the outset that the Chair envisioned a new convention with an independent monitoring body. Arguments in favor of the Chair's approach were that the HRC was already overburdened and backlogged, that the new committee could be composed of persons who were experts on the issue of Enforced
Disappearance, and that the independent CRP Secretariat should incorporate a system for addressing "urgent situations." The contrary view (shared by the U.S.) held that an existing and experienced committee would be more efficient and effective and avoid redundancies and inconsistent jurisprudence, that providing adequate financial support to the HRC could reduce its backlog allowing it to accommodate the work of enforced disappearance. In addition, the U.N. is in the process of evaluating whether to consolidate all treaty bodies as well as make other reforms and, because of that effort, this was not the appropriate time to create a new treaty body. The Chair finally acknowledged his view that the most important reason for making a separate convention and treaty body was a political one; that is, a separate treaty would underscore the importance of the issue and it was what the families wanted. There was extended debate concerning whether or not a separate convention could legally be implemented using the HRC but the final decision was made by the Chair. In an attempt to insert some compromise the Chair proposed to include a clause that called for a conference of states parties within four to six years of entry into force to evaluate the effectiveness of the new treaty body in light of its performance and the U.N. reforms, and determine whether it should be continued or replaced by an existing body. (This suggestion actually drew a less than enthusiastic response from the attendees but was included in the document anyway.) The U.S. stated its objections to this result for the record.

6. (U) The Final Reading. US Del made numerous proposals and raised objections for the record on Second Reading. These objections included statements with reference to preambular paragraph 7 on the Right to Know, Article 2 on the definition of an enforced disappearance, Article 4 on Criminalization, Article 5 referring to Crimes Against Humanity, Article 6(2) on Defense of Obedience to Superior Orders, Article 8 on Statutes of Limitations, Article 9(2) on "found in" jurisdiction, Article 16 on non-refoulement, Article 17 on access to places of detention, and Article 24(2) again concerning the Right to Know. Several other states expressed reservations on several provisions of the final text. Notable were the concerns of Germany on the Right to Know, New Zealand on reparations, and the Netherlands on the danger of undercutting the U.N. system with a new treaty body. Although the Second Reading was proclaimed by the Chair to be editorial only, the Chair included changes to text suggested by the Latin states, NGOs and the families.
7. (U) No Consensus. Throughout the Negotiations, the US Del met with the Chair to express serious concern that the pace of the negotiations and failure to accommodate significant legal concerns of the United States would make it impossible for the U.S. to join a consensus. The Chair acknowledged the problem but was adamant that this be the last session and the product of this negotiation was his text and would go forward to the Commission. The Chair made clear that all states could submit their objections for the record in the Chair's report. In the end, the Chair did not declare consensus, but only stated that the working group could make no more progress and its work was at an end. We have provided USG changes to the draft Report and will be reviewing the final Report as soon as it is prepared to verify that all of our concerns are reflected.

8) (U) The Wrap-up. The final day of negotiations was taken up with general statements by delegations. Many delegations and organizations representing disappeared persons reacted with outpourings of emotion over the conclusion of the draft text. Several delegations also took the occasion to restate their objections for the record. The US Del delivered a statement confirming each of the objections that it had previously raised. Text of that statement was emailed to L/HRR.

Moley

NNNN
STATE FOR IO/SHA, DRL/MLA, L/HRR

B.O. 12958: N/A

TAGS: PHUM, UNHRC-1

SUBJECT: COMMUNICATION FROM THE WORKING GROUP ON ENFORCED DISAPPEARANCES

1. Mission received the following letter dated August 25, 2004 from the Chairman of the Working Group on Enforced or Involuntary Disappearances, Stephen J. Toope, addressed to Ambassador Moley. The letter concerns reports the Working Group has received regarding alleged secret detention centers under United States' authority in various parts of the world and invites the USG to submit written information by October 15 and/or send a representative to appear in person at the next Working Group session November 8-15, 2004.

2. Text of letter and annex follows:

Begin text.

25 August 2004

Dear Mr. Ambassador,

I should like to communicate to you, on behalf of the Chairman of the Working Group on Enforced or Involuntary Disappearances, the following letter addressed to you:

"Dear Mr. Ambassador,

I have the honour to write to you on behalf of the Working Group on Enforced or Involuntary Disappearances, which held

In the course of the session, the Working Group decided to inform your Government of reports it had received about developments in your country having an influence on the phenomenon of disappearances or the solution of the cases not yet clarified, and/or on the implementation of the Declaration on the Protection of All Persons from Enforced Disappearances. A summary is provided as an Annex to this letter.

I would like to take this opportunity to remind your Government that the Working Group will hold its seventy-fourth session from 8 to 15 November 2004, at the United Nations Office in Geneva. It would therefore be very much appreciated if any written information that your Government wishes to submit for the Working Group's consideration, could be received, if possible, by 15 October 2004.

In conformity with its usual practice, the Working Group is prepared to receive representatives of interested Governments during the first three days of its session. Should your Government wish to be represented at the forthcoming session, I would appreciated your contacting the Group's secretariat at the United Nations Office of the High Commissioner for Human Rights in Geneva (tel. 022-917-9176), in order to schedule an appointment with the Group.

I remain,  
Dear Mr. Ambassador,

Yours sincerely,

Stephen J. Toope  
Chairman  
Working Group on Enforced or Involuntary Disappearances"  

I remain,  
Dear Mr. Ambassador,

Yours sincerely,

Tanya Smith  
Secretary a.i.  
Working Group on Enforced or Involuntary Disappearances

ANNEX  
WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES
General allegations

United States of America

The Working Group received information from non-governmental organizations concerning the reported non-compliance by the Government of the United States of America with provisions of the Declaration on the Protection of All persons from Enforced Disappearance.

Reports were received by the Working Group regarding secret detention centers under United States' authority in various parts of the world, in which an unknown number of persons are detained. Reports assert that there was inadequate provision of notice to families about the capture of detainees and their conditions, legal status and rights. It is also reported that it is unclear in many circumstances which U.S. agency is ultimately responsible for the arrest or the conditions of confinement of the detainees in these facilities.

Reports further specify that the most sensitive and high-profile detainees are not being held in Guantanamo because it is believed that detainees there will eventually be monitored by the U.S. courts. It is stated that terrorism suspects are detained by the United States in "undisclosed locations," presumably outside the United States, with no access to the ICRC, no notification to families, no oversight of any sort of their treatment, and in most cases no acknowledgment that they are even being held. Information was provided on 13 specific alleged detainees, apprehended in places such as Pakistan, Indonesia, Thailand, Morocco, and the United Arab Emirates, who have reportedly disappeared in U.S. custody.

American authorities have also apparently refused to disclose the names of men secretly detained during the past few years within the United States. Families have not been informed on the arrested persons' locations. Reports state that some of these detainees have now been released or deported.

End text.

3. Mission transmitted a copy of the letter by fax to IO/SHA, Attention Director.
Cassel
UNCLASSIFIED

P 081402Z OCT 03
FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 7206
INFO USMISSION USUN NEW YORK

RELEASED IN FULL

UNCLAS GENEVA 003196

STATE FOR IO/SHA, DRL/MLA, L/HRR

E.O. 12958: N/A
TAGS: PHUM
SUBJECT: ICCPR PERIODIC REPORT OVERDUE

REF: A. GENEVA 2046
    B. GENEVA 1844

1. THIS IS AN ACTION REQUEST. SEE PARAGRAPH 6.

2. SUMMARY: MISSION RECEIVED A DIPLOMATIC NOTE DATED
   SEPTEMBER 17, 2003 FROM THE OFFICE OF THE HIGH COMMISSIONER
   FOR HUMAN RIGHTS (OHCHR) REMINDING US THAT THE SECOND
   PERIODIC REPORT REQUIRED UNDER ARTICLE 40 OF THE
   INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)
   IS OVERDUE. THE REPORT WAS ORIGINALLY DUE IN 1998, AND,
   SINCE THE THIRD REPORT IS DUE NEXT MONTH, THE SECRETARIAT HAS
   RECOMMENDED THAT OUR SUBMISSION COVER THE PERIOD FROM 1995 TO
   MID 2003. IN THE EVENT THAT THE REPORT IS NOT RECEIVED BY
   HUMAN RIGHTS COMMITTEE MAY INVOKE RULE 69A, GIVING IT THE
   AUTHORITY TO EXAMINE COMPLIANCE ON THE BASIS OF OTHER SOURCES
   OF INFORMATION. END SUMMARY.

3. MISSION RECEIVED A DIPLOMATIC NOTE DATED SEPTEMBER 17,
   2003 FROM THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN
   RIGHTS (OHCHR) REMINDING US OF OUR OVERDUE SECOND PERIODIC
   REPORT REQUIRED UNDER ARTICLE 40 OF THE INTERNATIONAL
   CONVENTION ON CIVIL AND POLITICAL RIGHTS (ICCPR). THE TEXT
   OF THE NOTE IS AS FOLLOWS:

   BEGIN TEXT:
   THE SECRETARIAT OF THE UNITED NATIONS (OFFICE OF THE

   UNITED STATES DEPARTMENT OF STATE
   REVIEW AUTHORITY: ARCHIE M BOLSTER
   DATE/CASE ID: 18 JUN 2009 200706444

   UNCLASSIFIED
HIGH COMMISSIONER FOR HUMAN RIGHTS) PRESENTS ITS COMPLIMENTS TO THE PERMANENT MISSION OF THE UNITED STATES TO THE UNITED NATIONS OFFICE AT GENEVA AND HAS THE HONOUR TO REFER TO PARAGRAPH 66 OF THE ANNUAL REPORT OF THE UN HUMAN RIGHTS COMMITTEE TO THE GENERAL ASSEMBLY (DOCUMENT A/56/40, VOL. I).

PURSUANT TO THIS PARAGRAPH, THE GOVERNMENT OF THE UNITED STATES WAS SCHEDULED TO PRESENT ITS SECOND PERIODIC REPORT UNDER ARTICLE 40 OF THE INTERNATIONAL CONVENTION ON CIVIL AND POLITICAL RIGHTS BY 7 SEPTEMBER 1998. SAID REPORT HAS NOT YET BEEN RECEIVED BY THE COMMITTEE.

THE HUMAN RIGHTS COMMITTEE RESPECTFULLY URGES THE GOVERNMENT OF THE UNITED STATES TO SUBMIT ITS SECOND PERIODIC REPORT UNDER ARTICLE 40 OF THE COVENANT AT THE GOVERNMENT'S EARLIEST CONVENIENCE, AND NOT LATER THAN 6 MONTHS FROM THE DATE OF THIS PRESENT NOTE. REFERENCE IS MADE TO RULE 69A OF THE COMMITTEE'S RULES OF PROCEDURE, WHICH ENABLES THE COMMITTEE TO CONSIDER THE MEASURES TAKEN BY THE STATE PARTY TO GIVE EFFECT TO THE RIGHTS PROTECTED UNDER THE COVENANT IN THE ABSENCE OF A REPORT. A COPY OF THE COMMITTEE'S RULES OF PROCEDURE IS ATTACHED FOR EASE OF REFERENCE.

END TEXT.


5. RULE 69A ALLOWS THE COMMITTEE TO CONSIDER A STATE'S COMPLIANCE WITH THE ICCPR IN CASES WHERE IT HAS NOT SUBMITTED A WRITTEN REPORT.

6. COMMENT AND ACTION REQUEST: WITHOUT OUR REPORT, THE COMMITTEE WILL RELY ONLY ON NGO AND OTHER OUTSIDE SOURCES OF INFORMATION IN THEIR CONSIDERATION OF OUR COMPLIANCE WITH THE ICCPR. POST REQUESTS GUIDANCE ON AN INTERIM RESPONSE TO THE COMMITTEE CONCERNING THE STATUS OF OUR SUBMISSION. END COMMENT.

7. POST WILL FAX A COPY OF THE NOTE AND RULE 69A TO TOM JOHNSON IN 10/SHA.

MOLEY

NNNN

UNCLASSIFIED
R 241927Z APR 01
FM USMISSION GENEVA
TO SECSTATE WASHDC 0999
INFO HUMAN RIGHTS COMMISSION COLLECTIVE

UNCLAS SECTION 01 OF 06 GENEVA 001726

FOR IO/SHA AND DRL/MLA

E.O. 12958: N/A
TAGS: PHUM, UNHRC-1
SUBJECT: CHR VOTING RESULTS -- APRIL 23, 2001

1. THIS IS CHR DELEGATION CABLE 110.

2. ON APRIL 23, THE COMMISSION COMPLETED CONSIDERATION OF
AGENDA ITEM 10 (ECONOMIC, SOCIAL AND CULTURAL RIGHTS) AND
BEGAN CONSIDERATION OF AGENDA ITEM 11 (CIVIL AND POLITICAL
RIGHTS). THE COMMISSION ADOPTED TWENTY TEXTS, INCLUDING
SEVEN BY VOTE. PARAGRAPHS VOTES WERE ALSO TAKEN ON TWO OF THE
UNCLASSIFIED

PAGE 02  GENEVA 01726 01 OF 06 241926Z
RESOLUTIONS, BEFORE THE OVERALL TEXTS WERE ADOPTED BY
CONSSENSUS.

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AGENDA ITEM 10 - ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
------------------------------------------

--L.45 HUMAN RIGHTS AND EXTREME POVERTY (FRANCE)

ADOPTED WITHOUT A VOTE. SEE CHR 2000/12 (FRANCE), ADOPTED
WITHOUT A VOTE.

--L.48 GLOBALIZATION (PAKISTAN)

--L.50 ACCESS TO MEDICATION IN THE CONTEXT OF PANDEMICS SUCH AS HIV/AIDS (BRAZIL) (NEW)

ADOPTED BY A VOTE OF 52-0-1(US). U.S. GAVE EOV BEFORE THE VOTE.

--L.53 WOMEN’S EQUAL OWNERSHIP OF, ACCESS TO AND CONTROL OVER LAND AND THE EQUAL RIGHTS TO OWN PROPERTY AND TO ADEQUATE HOUSING (MEXICO)

ADOPTED WITHOUT A VOTE. U.S. CALL FOR A VOTE ON OP5 AND WAS REJECTED BY A VOTE OF 49-1(US)-3. SEE CHR 2000/13 (MEXICO), ACCEPTED WITHOUT A VOTE.

UNCLASSIFIED

PAGE 03 GENEVA 01726 01 OF 06 241926Z

--L.54 ADVERSE EFFECTS OF THE ILLICIT MOVEMENT AND DUMPING OF TOXIC AND DANGEROUS PRODUCTS AND WASTES ON THE ENJOYMENT OF HUMAN RIGHTS (KENYA)

ADOPTED BY A VOTE OF 38-15(US). TEXT EXTENDED MANDATE OF SPECIAL RAPPORTEUR BY THREE YEARS. SEE CHR 2000/72 (AF COORDINATOR) ADOPTED BY VOTE 37-16(US).

--L.37 THE SOCIAL FORUM - SUB-COMMISSION DRAFT DECISION 2 (NORWAY)

NORWEGIAN AMENDMENT ADOPTED WITHOUT A VOTE.

--L.43 PROMOTION OF THE REALIZATION OF THE RIGHT TO DRINKING WATER AND SANITATION - SUB-COMMISSION DRAFT DECISION 3 (NORWAY)

NORWEGIAN AMENDMENT ADOPTED WITHOUT A VOTE.

AGENDA ITEM 11 - CIVIL AND POLITICAL RIGHTS

--L.8/REV.1 CIVIL AND POLITICAL RIGHTS: STRENGTHENING OF POPULAR PARTICIPATION, EQUITY, SOCIAL JUSTICE AND NON-DISCRIMINATION AS ESSENTIAL FOUNDATIONS OF DEMOCRACY.

ADOPTED BY A VOTE OF 28-4(US)-21. CUBAN PROPOSAL OF A SUB-AMENDMENT TO THE EU AMENDMENTS CHANGING "AFFIRMS" TO
"NOTES" WAS ADOPTED BY A VOTE OF 24-17(US)-12.

---L/34 HUMAN RIGHTS AND TERRORISM (ALGERIA)


---L/35 HOSTAGE-TAKING (RUSSIA)

ADOPTED WITHOUT A VOTE. SEE CHR 2000/29.

---L/38 INDEPENDENCE AND IMPARTIALITY OF THE JUDICIARY, JURORS AND ASSESSORS AND THE INDEPENDENCE OF LAWYERS (HUNGARY)

ADOPTED WITHOUT A VOTE. USDEL CO-SPONSORED. SEE CHR 2000/42.

---L/40 THE RIGHT TO RESTITUTION, COMPENSATION AND REHABILITATION FOR VICTIMS OF GRAVE VIOLATIONS OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (CHILE)

ADOPTED WITHOUT A VOTE. SEE CHR 2000/41.

---L/44 QUESTION OF ARBITRARY DETENTION (FRANCE)
ADOPTED WITHOUT A VOTE. SEE CHR 2000/36.

---L.46 CONTINUING DIALOGUE ON MEASURES TO PROMOTE AND CONSOLIDATE DEMOCRACY

ADOPTED BY A VOTE OF 44(US)-0-9. (CUBAN AMENDMENT L.66 WAS WITHDRAWN; OP 5 WAS RETAINED BY A VOTE OF 37(US)-8-8.)

---L.49 IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (IRELAND)

ADOPTED WITHOUT A VOTE. USDEL CO-SPONSORED.

---L.51 THE INCOMPATIBILITY BETWEEN DEMOCRACY AND RACISM (BRAZIL)

ADOPTED WITHOUT A VOTE. USDEL CO-SPONSORED.

---L.52 DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (COSTA RICA)

ADOPTED WITHOUT A VOTE. USDEL CO-SPONSORED.

---L.55 EXTRAJUDICIAL, SUMMARY OR ARBITRARY EXECUTIONS (SWEDEN)

ADOPTED WITHOUT A VOTE. U.S. CHANGE ADOPTED FOR OP8 ("OBLIGATIONS ASSUMED UNDER"). USDEL GAVE EOP AT END OF THE AGENDA ITEM.

---L.57 QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES


UNCLASSIFIED
THE UNITED STATES DOES NOT ACCEPT THE PREMISE THAT THE NET EFFECT WORLD-WIDE OF THE MANY PHENOMENA GROUPED UNDER THE TERM "GLOBALIZATION" HAS BEEN AN INCREASE IN POVERTY, NOR THAT GLOBALIZATION HAS HAD A BROAD NEGATIVE IMPACT ON THE ENJOYMENT OF HUMAN RIGHTS. IN ITS NON-ECONOMIC ASPECTS, THE VASTLY INCREASED INFORMATION FLOWS FACILITATED BY GLOBALIZATION HAVE ALLOWED A MUCH BRIGHTER LIGHT TO BE FOCUSED ON HUMAN RIGHTS ABUSES AROUND THE WORLD, BRINGING GREATER INTERNATIONAL ATTENTION THAN EVER BEFORE.

AS FOR GLOBALIZATION'S ECONOMIC ASPECTS, THE PAST THREE DECADES HAVE SEEN MORE PEOPLE RISE OUT OF ABSOLUTE POVERTY THAN IN ANY COMPARABLE PERIOD IN THE WORLD'S HISTORY. THE COUNTRIES THAT HAVE SUCCEEDED BEST AT HELPING THEIR CITIZENS ESCAPE FROM POVERTY HAVE BEEN THOSE WITH EFFECTIVE GOVERNMENTS THAT LARGELY EMBRACED FREER MARKETS, FREER TRADE, AND TECHNOLOGICAL CHANGE.
IT IS CERTAINLY TRUE THAT GLOBALIZATION EMBODIES CHANGE, THAT CHANCE PRESENTS CHALLENGE TO ANY SOCIETY, AND THAT AMONG THESE CHALLENGES IS THE PROBLEM OF HELPING THOSE WHO MAY FIND IT DIFFICULT TO ADAPT FOR WHATEVER REASON. NATIONAL POLICIES

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ACTION IO-00

INFO LOG-00 AF-00 AID-00 AMAD-00 EVG-00 CIAE-00 DODE-00
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TO SECGST WASHDC 1001
INFO HUMAN RIGHTS COMMISSION COLLECTIVE

UNCLAS SECTION 03 OF 06 GENEVA 001726

FOR IO/SHA AND DRL/MLA

E.O. 12958: N/A
TAGS: PHUM, UNHRC-1
SUBJECT: CHR VOTING RESULTS -- APRIL 23, 2001

PROMOTING PARTICIPATION IN GLOBALIZATION'S OPPORTUNITIES AND PROVIDING SAFETY NETS FOR THOSE WHO MAY BE ADVERSELY AFFECTED ARE VITAL IN THIS REGARD.

THE LESSONS OF RECENT DECADES ARE CLEAR, HOWEVER. THE DEVELOPING COUNTRIES WITH THE FASTEST GROWTH RATES FOR EXTENDED PERIODS HAVE BEEN THOSE THAT ARE MOST INTEGRATED IN

UNCLASSIFIED

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THE WORLD ECONOMY, AND THE MOST INVOLVED IN THE PROCESS OF GLOBALIZATION. FAILURE TO TAKE ADVANTAGE OF NEW OPPORTUNITIES, EVEN WHERE THESE ARE ACCOMPANYED BY CHALLENGES, WILL CONDEMN POPULATIONS TO FURTHER ECONOMIC MARGINALIZATION AND STAGNATION.

THIS REALITY IS NOT REFLECTED IN THE CURRENT DRAFT. FOR

UNCLASSIFIED
THANK YOU.

U.S. DELEGATION, UN COMMISSION ON HUMAN RIGHTS
EXPLANATION OF VOTE
L.50, ACCESS TO MEDICATION IN THE CONTEXT OF
PANDEMICS SUCH AS HIV/AIDS

AMBASSADOR GEORGE MOOSE
U.S. DELEGATION, UN COMMISSION ON HUMAN RIGHTS
EOV: L.50
ACCESS TO MEDICATION IN THE CONTEXT OF PANDEMICS SUCH AS
HIV/AIDS

MR. CHAIRMAN:

THE UNITED STATES IS STRONGLY COMMITTED TO ADDRESSING THE
AIDS PANDEMIC INTERNATIONALLY, INCLUDING ACCESS TO TREATMENT
AND CARE. FOR THAT REASON, WE WORKED HARD WITH BRAZIL AND
OTHER DELEGATIONS TO TRY TO COME TO AGREEMENT ON AN
UNCLASSIFIED

ACCEPTABLE TEXT. WE CERTAINLY UNDERSTAND AND APPRECIATE THE
SENTIMENTS THAT HAVE MOTIVATED THIS INITIATIVE. WE VERY MUCH
REGRET, HOWEVER, THAT, DESPITE EXTENSIVE DIALOGUE REGARDING
THIS VERY COMPLEX ISSUE, WE ARE UNABLE TO JOIN CONSENSUS ON
THIS TEXT.

FROM THE PERSPECTIVE OF GOOD PUBLIC HEALTH PRACTICE, WE
BELIEVE THAT THIS RESOLUTION IS FLAWED IN A NUMBER OF WAYS.
AS WRITTEN THE RESOLUTION WOULD LIMIT THE RIGHTS OF STATES TO
SET PRIORITIES WITHIN THEIR NATIONAL POLICIES AND STRATEGIES
FOR DEALING WITH SUCH PANDEMICS. WE BELIEVE THAT STATES MUST
HAVE THE LATITUDE TO DEVELOP BALANCED STRATEGIES THAT INCLUDE
PREVENTION, COUNSELING AND RELATED SUPPORT SERVICES, AS WELL
AS CARE, INCLUDING ACCESS TO DRUGS.

WE NOTE THAT UNAIDS - THE UN'S UMBRELLA ORGANIZATION FOR
RESPONDING TO THE HIV/AIDS CRISIS - WAS ESTABLISHED TO
DE-MEDICALIZE HIV/AIDS AND TO FOCUS ON THE NEED FOR A
MULTI-DIMENSIONAL APPROACH TO THIS PANDEMIC. IT IS CLEAR THAT
AN OVER-EMPHASIS ON USE OF PHARMACEUTICALS, NO MATTER HOW
WELL INTENTIONED, DETRACTS FROM THE MORE FUNDAMENTAL NEED FOR
PRIMARY PREVENTION.

HIV/AIDS IS A HORRIBLE DISEASE. ONCE STARTED, MEDICINES MUST
BE USED CONSISTENTLY DAY AFTER DAY FOR THE REST OF A PATIENT'S LIFE. IF STOPPED, WHEN THE PATIENT FEELS BETTER, THE DISEASE RETURNS VERY STRONGLY. THEREFORE, FOR TREATMENT TO BE EFFECTIVE, IT IS ESSENTIAL THAT STATES PUT IN PLACE THE INFRASTRUCTURE TO ENSURE THAT ANTI-RETROVIRALS ARE USED APPROPRIATELY.

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THE RESOLUTION CALLS INTO QUESTION THE LEGITIMATE RESPONSIBILITY OF NATIONAL GOVERNMENTS TO ASSURE THE EFFECTIVENESS AND SAFETY OF PHARMACEUTICAL PRODUCTS FOR USE IN PANDEMICS. FURTHER, IT APPEARS TO QUESTION THE VALIDITY OF INTERNATIONALLY AGREED PROTECTIONS OF INTELLECTUAL PROPERTY RIGHTS. IN SO DOING, IT COULD WELL HAVE THE UNINTENDED CONSEQUENCE OF DISCOURAGING INVESTMENT IN THE IMPORTANT RESEARCH DESPERATELY NEEDED TO FIND THE CURES OF THE FUTURE. NOR DOES THIS RESOLUTION CONSIDER THE POTENTIAL FOR OTHER UNINTENDED CONSEQUENCES, INCLUDING THE EMERGENCE OF MORE VIGOROUS AND DRUG RESISTANT FORMS OF THE HIV VIRUS. SIMPLY PUT, THIS IS BAD PUBLIC HEALTH POLICY.

THIS RESOLUTION IS, IN ESSENCE, A FLAWED HEALTH DOCUMENT, NOT A HUMAN RIGHTS DOCUMENT. COMPLEX HEALTH MATTERS ARE BEST DEALT WITH BY THE UN ORGANIZATION THAT HAS THE TECHNICAL COMPETENCE IN THOSE MATTERS -- THE WORLD HEALTH ORGANIZATION.

THE 191 MEMBER STATES THAT COMPREHEND THE WORLD HEALTH ASSEMBLY WILL BE MEETING HERE IN GENEVA IN THREE WEEKS TIME, AND BOTH HIV/AIDS AND WHO'S REVISED DRUG STRATEGY WILL BE ON THE AGENDA. THAT IS THE MOST APPROPRIATE VENUE FOR HEALTH MATTERS.

MY GOVERNMENT IS ALSO CONCERNED BY REFERENCES WHICH APPEAR TO
THE U.S. GOVERNMENT IS THE WORLD'S LEADING PROVIDER OF INTERNATIONAL ASSISTANCE FOR THE PURPOSE OF PROVIDING THAT PEOPLE LIVING WITH HIV/AIDS RECEIVE TREATMENT AND CARE, INCLUDING PHARMACEUTICALS. WE HAVE PLAYED A LEADING ROLE IN THE DEVELOPMENT OF INTERNATIONAL STRATEGIES TO COMBAT THE SCOURGE OF THIS DISEASE. WE CANNOT, HOWEVER, SUPPORT A FLAWED RESOLUTION WHOSE UNINTENDED CONSEQUENCES COULD PROVE EXTREMELY HARMFUL TO OUR COLLECTIVE EFFORTS.

FOR THESE REASONS, AND OTHERS, MY DELEGATION WILL ABSTAIN IN THE VOTE ON THIS RESOLUTION.

THANK YOU.
MR. CHAIRMAN:

THE UNITED STATES REGrets THAT IT IS FORCED TO CALL FOR A UNCLASSIFIED VOTE ON OP 5 OF RESOLUTION L. 53. IT IS CLEAR THAT OUR MODEST, TECHNICAL AMENDMENT DOES NOT HAVE THE SUPPORT OF THE MEMBERS OF THE COMMISSION. WE REGRET THAT. WE THINK IT IS A MISTAKE FOR THIS BODY, OR ANY U.N. BODY, TO ENGAGE IN THE PRACTICE OF REWRITING THE HISTORICAL RECORD.

THAT SAID, GIVEN THE OPPOSITION TO OUR AMENDMENT, WE HEREBY WITHDRAW IT. HOWEVER, UNDER THE CIRCUMSTANCES, WE FEEL OBLIGED TO REQUEST A VOTE ON OP 5. ONCE AGAIN, WITH RESPECT TO OP 5, COMMISSION ON THE STATUS OF WOMEN RESOLUTION 42-1 -- REAFFIRMED IN THIS PARAGRAPH -- INCLUDES NO MENTION OF THE RIGHT TO ADEQUATE HOUSING.

FURTHERMORE, THE REFERENCE TO THE RIGHT OF ADEQUATE HOUSING IS A MISSTATEMENT OF INTERNATIONAL HUMAN RIGHTS LAW. WE HAVE SOUGHT IN NEGOTIATIONS BEFORE TODAY TO AMEND THIS RESOLUTION TO MAKE IT CONSISTENT WITH THE UNIVERSAL DECLARATION OF HUMAN RIGHTS, AS WELL AS WITH THE HUMAN RIGHTS AND HOUSING RESOLUTION ALSO BEING ADOPTED UNDER THIS AGENDA ITEM. WE STRONGLY SUPPORT, HOWEVER, THE PROPOSITION THAT WOMEN'S RIGHTS IN THE AREA OF HOUSING SHOULD BE EQUAL TO THOSE OF MEN.

THIS, HOWEVER, CANNOT BE ACHIEVED THROUGH MISSTATEMENT OF ACCEPTED INTERNATIONAL PRINCIPLES OR INCORRECT CITATIONS OF RESOLUTIONS ADOPTED BY OTHER BODIES. IT IS FOR THESE REASONS THAT WE ARE UNABLE TO CO-SPONSOR THIS RESOLUTION.

THANK YOU.

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U.S. DELEGATION, UN COMMISSION ON HUMAN RIGHTS UNCLASSIFIED

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EXPLANATION OF VOTE L.34, HUMAN RIGHTS AND TERRORISM
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AMBASSADOR GEORGE MOOSE
U.S. DELEGATION, UN COMMISSION ON HUMAN RIGHTS
BOV: L.34, HUMAN RIGHTS AND TERRORISM
APRIL 23, 2001

MR. CHAIRMAN:

UNCLASSIFIED
RECENT EVENTS HAVE SHOWN THAT TERRORISM CONTINUES TO POSE CLEAR AND PRESENT DANGER TO THE INTERNATIONAL COMMUNITY. THE ATTACK ON THE U.S.S. COLE AND THE RASH OF TERRORIST ATTACKS AROUND THE WORLD ARE ONLY THE LATEST IN A SERIES OF EVENTS THAT DEMONSTRATE CLEARLY THAT TERRORISTS HAVE NO RESPECT FOR HUMAN LIFE. THE UNITED STATES HAS A STRONG AND ABIDING COMMITMENT TO COMBATING TERRORISM, WHICH INCLUDES COOPERATING WITH THE APPROPRIATE MECHANISMS ESTABLISHED BY THE INTERNATIONAL COMMUNITY.

WE REGRET, THEREFORE, THAT WE ARE OBLIGED TO VOTE AGAINST THIS RESOLUTION. OUR REASON IS THAT THE SPONSORS HAVE INCLUDED LANGUAGE THAT GRANTS TERRORISTS AND TERRORIST

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INFO HUMAN RIGHTS COMMISSION COLLECTIVE

UNCLAS SECTION 05 OF 06 GENEVA 001726

FOR IO/SHA AND DRL/MLA

E.O. 12958: N/A
TAGS: PHUM, UNHRC-1
SUBJECT: CHR VOTING RESULTS -- APRIL 23, 2001

ORGANIZATIONS A MEASURE OF LEGITIMACY BY EQUATING THEIR CONDUCT WITH THAT OF STATES. WE BELIEVE THAT THE BASIC FUNCTION OF THE COMMISSION IS TO SET HUMAN RIGHTS STANDARDS THAT ARE BINDING UPON STATES AND TO REVIEW STATES' COMPLIANCE WITH THOSE STANDARDS. TERRORISTS ARE NOT STATE ACTORS, BUT CRIMINALS WHO BEAR INDIVIDUAL CRIMINAL RESPONSIBILITY FOR THEIR ACTIONS. THE PERPETRATION OF THIS UNFORTUNATE UNCLASSIFIED

UNCLASSIFIED
CONFUSION ADDS NOTHING TO THE ABILITY, OR THE OBLIGATION, OF MEMBER STATES TO COOPERATE IN THE EFFORT TO COMBAT TERRORISM.

FOR THIS REASON, THE UNITED STATES BELIEVES THAT THE SUBJECT OF TERRORISM IS BEST ADDRESSED IN OTHER FORA, SUCH AS THE SIXTH COMMITTEE OF THE U.N. GENERAL ASSEMBLY.

THANK YOU.

U.S. DELEGATION, UN COMMISSION ON HUMAN RIGHTS
EXPLANATION OF POSITION
L.47, TORTURE AND OTHER CRUEL, UNHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

AMBASSADOR SHIRIN TAHIR-KHELI
U.S. DELEGATION, UN COMMISSION ON HUMAN RIGHTS
EOP: L.47, TORTURE AND OTHER CRUEL, UNHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
APRIL 23, 2001

MR. CHAIRMAN:

THE COMMITMENT OF THE UNITED STATES TO THE GOALS OF THIS RESOLUTION REMAIN AS STRONG AS EVER, AND WE ARE GRATEFUL TO DENMARK FOR THE LEADERSHIP IT HAS SHOWN ON THIS ISSUE.

WHILE WE REMAIN CONCERNED ABOUT THIS ASPECT OF TORTURE, WE BELIEVE THAT IT IS UNREASONABLE TO CALL FOR LEGISLATIVE

MEASURES TO PREVENT THE PRODUCTION OF THESE DEVICES WHEN THERE ARE CLEARLY MANY PROBLEMS DEFINING PRECISELY WHAT THESE DEVICES ARE.

THUS, WE HAVE WITHDRAWN OUR CO-SPONSORSHIP OF L.47 FOR ONE REASON ONLY: WE OPPOSE THE INCLUSION IN OP 8 OF THE REFERENCE TO THE PRODUCTION OF TORTURE DEVICES.

THANK YOU.

U.S. DELEGATION, UN COMMISSION ON HUMAN RIGHTS
EXPLANATION OF POSITION
L.56, FREEDOM OF OPINION AND EXPRESSION
STEVEN SOLOMON
U.S. DELEGATION, UN COMMISSION ON HUMAN RIGHTS
EOP: L.56, FREEDOM OF OPINION AND EXPRESSION
APRIL 23, 2001

MR. CHAIRMAN:

IT IS WITH REGRET THAT WE WITHDRAW OUR COSPONSORSHIP FROM
L.56, THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION. THE
ACCEPTANCE OF THE AMENDMENT WHICH REFERS TO ARTICLE 4 OF THE
CONVENTION ON THE ELIMINATION OF RACIAL DISCRIMINATION CAUSES
US TO DO SO.

WE OBJECT IN PRINCIPLES TO THE LANGUAGE TO THE EXTENT IT
PURPORTS TO BIND STATES TO TREATY PROVISIONS WHETHER OR NOT
UNCLASSIFIED

LET US ALSO ADD THAT THE CONSTITUTION AND LAWS OF THE UNITED
STATES CONTAIN EXTENSIVE PROTECTIONS OF INDIVIDUAL FREEDOM OF
SPEECH, EXPRESSION AND ASSOCIATION. AS THE UNITED STATES
MADE CLEAR UPON ITS RATIFICATION OF THE CONVENTION, THE
UNITED STATES DOES NOT ACCEPT ANY OBLIGATION UNDER THIS
CONVENTION, IN PARTICULAR UNDER ARTICLE 4, TO RESTRICT THOSE
RIGHTS, THROUGH THE ADOPTION OF LEGISLATION OR ANY OTHER
MEASURES, TO THE EXTENT THAT THEY ARE PROTECTED BY THE
CONSTITUTION AND LAWS OF THE UNITED STATES.

OUR COMMITMENT TO THE GOALS OF THIS RESOLUTION AS TABLED BY
CANADA REMAINS AS STRONG AS EVER.

WE WOULD ALSO LIKE TO RESTATE OUR GRATITUDE TO CANADA FOR ITS
EFFORTS ON AND COMMITMENT TO THIS ISSUE.

THANK YOU.

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U.S. DELEGATION, UN COMMISSION ON HUMAN RIGHTS
EXPLANATION OF POSITION
L. 57, ENFORCED OR INVOLUNTARY DISAPPEARANCES

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INFO HUMAN RIGHTS COMMISSION COLLECTIVE

UNCLASSIFIED SECTION 06 OF 06 GENEVA 001726

FOR IO/SHA AND DRL/MLA

E.O. 12958: N/A
TAGS: PHUM, UNHRC-1
SUBJECT: CHR VOTING RESULTS -- APRIL 23, 2001

MICHAEL DENNIS
U.S. DELEGATION, UN COMMISSION ON HUMAN RIGHTS
EOP: L. 57, ENFORCED OR IN VOLUNTARY DISAPPEARANCES
APRIL 23, 2001

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MR. CHAIRMAN:
THE UNITED STATES IS PLEASED TO SUPPORT THE RENEWAL IN L.57
OF THE MANDATE OF THE WORKING GROUP ON ENFORCED AND
IN VOLUNTARY DISAPPEARANCES AND TO COMMEND THEM ON THEIR
EXCELLENT WORK IN SUPPORT OF THE FAMILIES OF THE DISAPPEARED.

HOWEVER, MR. CHAIRMAN, WE MUST ALSO RESTATE OUR OPPOSITION TO
THE ESTABLISHMENT OF AN INTER-SESSIONAL, OPEN-ENDED WORKING
GROUP AS PROPOSED IN OP 12 OF THE REVISED TEXT IN THE
SEPARATE DOCUMENT. ALTHOUGH WE UNDERSTAND THE MOTIVATIONS
OF THE SUPPORTERS OF THIS IDEA AND THE IMPORTANCE OF
MECHANISMS DESIGNED TO ADDRESS ENFORCED OR IN VOLUNTARY
DISAPPEARANCES, IN OUR VIEW THIS WOULD CLEARLY DUPLICATE WORK
NOW BEING HANDLED BY OTHER INTERNATIONAL INSTRUMENTS AND BY
TWO EXISTING TREATY BODIES.

MR. CHAIRMAN, WE NOTE FURTHER THAT THERE IS A BASIC
CONTRADICATION IN THE PROPOSALS CONTAINED IN OP 11 AND OP 12.
OP 11 CALLS FOR THE APPOINTMENT OF AN INDEPENDENT EXPERT TO
EXAMINE WHETHER THERE EXIST "ANY GAPS" IN THE CURRENT PROTECTIONS WITH REGARD TO ENFORCED OR INVOLUNTARY DISAPPEARANCES. OP 12 WOULD CREATE, SIMULTANEOUSLY, A NEW WORKING GROUP THAT WOULD BEGIN WORK ON A NEW, LEGALLY-BINDING INSTRUMENT EVEN BEFORE KNOWING WHETHER THE STUDY OF THE INDEPENDENT EXPERT REVEALS ANY NEED FOR SUCH AN INSTRUMENT. CLEARLY, THE PROPOSED CREATION OF A WORKING GROUP IS, AT BEST, PREMATURE.

FOR THIS REASON, MR. CHAIRMAN, WE PROPOSE AN AMENDMENT DELETING OP 12, WHICH WOULD ESTABLISH THE WORKING GROUP.

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PAGE 03 GENEVA 01726 06 OF 06 241928Z ADDITIONALLY, THE U.S. PROPOSES A TECHNICAL AMENDMENT TO OP 11 TO DELETE THE PHRASE IN THE LAST LINE OF THE REVISED TEXT: AND TO THE FIRST SESSION OF THE WORKING GROUP ESTABLISHED UNDER PARAGRAPH 12. THE INDEPENDENT EXPERT SHOULD SUBMIT HIS REPORT TO THE COMMISSION ON HUMAN RIGHTS SO THAT A DECISION CAN BE TAKEN BY THIS BODY ON NEXT STEPS.

TO REPEAT, MR. CHAIRMAN, THE UNITED STATES IS PROPOSING AN AMENDMENT DELETING OP 12 CALLING FOR THE PREMATURE ESTABLISHMENT OF THE WORKING GROUP. SECOND, WE ARE CALLING FOR AN AMENDMENT TO OP 11 TO DELETE THE WORDS: AND TO THE FIRST SESSION OF THE WORKING GROUP ESTABLISHED UNDER PARAGRAPH 12. AGAIN, THE INDEPENDENT EXPERT SHOULD REPORT TO THE COMMISSION.

THANK YOU, MR. CHAIRMAN.

END TEXT.
MOOSE

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<< END OF DOCUMENT >>
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      OPIC-01  PRS-00  P-00  SP-00  SSO-00  SS-00  STR-00
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DEPT. FOR IO/ESA AND L/HRR

E.O. 12958: N/A
TAGS: PHUM, UNHRC-1, US
SUBJECT: CHR RESOLUTION 2000/37 - QUESTION ON ENFORCED OR INVOLUNTARY DISAPPEARANCES

1. MISSION HAS RECEIVED THE FOLLOWING NOTE VERBALE NO. 3301 DATED AUGUST 8, 2000 REQUESTING THE USG TO PROVIDE ANY INFORMATION IT MAY WISH TO TRANSMIT TO THE OHCHR ON CHR RESOLUTION 2000/37, IF POSSIBLE, BY SEPTEMBER 30, 2000.

BEGIN TEXT:

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THE SECRETARY-GENERAL OF THE UNITED NATIONS PRESENTS ITS COMPLIMENTS TO YOUR GOVERNMENT AND HAS THE HONOUR TO DRAW ITS ATTENTION TO RESOLUTION 2000/37 ADOPTED BY THE COMMISSION ON HUMAN RIGHTS ON 20 APRIL 2000 ENTITLED "QUESTION ON ENFORCED OR INVOLUNTARY DISAPPEARANCES."


UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: ARCHIE M BOLSTER
DATE/CASE ID: 18 JUN 2009  200706444

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ORGANIZATIONS TO SUBMIT THEIR VIEWS AND COMMENTS, AS A MATTER OF HIGH PRIORITY, ON THE DRAFT INTERNATIONAL CONVENTION, ON THE FOLLOW-UP THERETO, AND IN PARTICULAR, ON WHETHER AN INTERSESSIONAL WORKING GROUP SHOULD BE SET UP TO CONSIDER THE DRAFT INTERNATIONAL CONVENTION. A COPY OF THE DRAFT INTERNATIONAL CONVENTION IS ATTACHED HERewith.

THE SECRETARY-GENERAL WOULD BE GRATEFUL IF YOUR GOVERNMENT COULD FORWARD TO THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, ACTIVITIES AND PROGRAMMES BRANCH, UNITED NATIONS OFFICE AT GENEVA, CH 1211 10, IF POSSIBLE BY 30 SEPTEMBER 2000, ANY INFORMATION IT MAY WISH TO PROVIDE ON THE MATTER.

8 AUGUST 2000

END OF TEXT.

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2. MISSION WILL TRANSMIT BY POUCH NOTE VERBALE AND ANNEX TO IO/ESA.

MOOSE

<< END OF DOCUMENT >>
STATE FOR IO-RHS, DRL-MLGA, L-HRR

E.O. 12958: N/A
TAGS: PHUM, UNHRC-1
SUBJECT: Working Group on Enforced or Involuntary Disappearances

1. Mission has received a communication from the Secretary, a.i. on the Working Group on Enforced or Involuntary. This communication is number 04 on the Geneva 2008 Communications Log.

2. Begin text of letter. Excellency, At the request and on behalf of the Chairman of the Working Group on Enforced or Involuntary Disappearances, I have the honour to communicate the following letter addressed to you:

"Excellency, I have the honour to write to you on behalf of the Working Group on Enforced or Involuntary Disappearances, which held its 83rd session from 21 to 30 November 2007 at the Office of the United Nations High Commissioner for Human Rights in Geneva.

In the course of the session, the Working Group decided to inform your Government of general allegations it has received in relation to the implementation of the Declaration on the Protection of All Persons from Enforced Disappearances in your country. A summary is provided in Annex I. Any comments regarding these general allegations should be received by 1 October 2008 in order to be included in the Working Group's annual report.

I would like to take this opportunity to remind your Government that the Working Group will hold its 84th session at the United Nations Office in Geneva from 10 to 14 March 2008. As such, the Working Group would be grateful if any written information which your Government wishes to submit for the Working Group's consideration, could be received by 8 February 2008. Information may be submitted at any time of the year, and will be reviewed as soon as it can be processed.
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In conformity with its usual practice, the Working Group is prepared to receive representatives of interested Governments during the first three days of its next session, from 10 to 11 March 2008. Should your Government wish to be represented at the forthcoming session, please contact the Working Group's secretariat at the United Nations Office of the High Commissioner for Human Rights in Geneva (tel: 022 917 9176, fax: 022 917 9006) to schedule an appointment with the Working Group. The dates of subsequent sessions for the coming year may also be requested or found on the WGID webpage: http://www.ohchr.org/english/issues/disappear. I remain, Excellency, Yours sincerely, Santiago Corcuera Chairman-Rapporteur Working Group on Enforced or Involuntary Disappearances

83rd Session General Allegation: USA
The Working Group received information from non-governmental organizations concerning reported obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance.

It was reported that one case of extraordinary rendition, which occurred in Italy on 17 February 2003, involved an enforced disappearance for a certain period of time. The Working Group was informed that this case took place in the context of extraordinary rendition programmes that were allegedly carried out by the United States of America together with Egypt, where the person was secretly imprisoned and reportedly tortured.

End text of letter

NNNN
1. This is CHR DEL CABLE NUMBER 102.

2. The French delegation, as sponsors of above-referenced resolution, circulated Rev. 3 at drafting session this morning. Rev. 3 proposes (A) the creation, at next year's UNCLASSIFIED

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UNHRC, OF "AN INTER-SESSIONAL OPEN ENDED WORKING GROUP . . . WITH THE MANDATE TO ELABORATE A DRAFT LEGALLY BINDING NORMATIVE INSTRUMENT FOR THE PROTECTION OF ALL PERSONS FROM ENFORCED DISAPPEARANCES" (OP 11) AND (B) THE APPOINTMENT OF "AN INDEPENDENT EXPERT WITH THE MANDATE TO PREPARE AN EXHAUSTIVE EXAMINATION OF THE EXISTING LEGAL NORMS AND OF THE MOST RECENT EVOLUTIONS IN THE INTERNATIONAL AND REGIONAL FRAMEWORK IN THIS MATTER." (OP12). THIS IS VIEWED BY THE GRULAC AS A "COMPROMISE" FROM THEIR ORIGINAL POSITION, WHICH CALLED FOR THE CREATION OF A WORKING GROUP, BUT NOT THE APPOINTMENT OF AN EXPERT. THE NOTION OF AN INDEPENDENT EXPERT WAS PROPOSED BY THE NEW ZEALAND AND AUSTRALIAN DELEGATIONS AS AN ALTERNATIVE TO THE CREATION OF AN

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INTER-SESSIONAL OPEN-ENDED WORKING GROUP. THE CURRENT DRAFT COMBINES BOTH CONCEPTS, AND THEREFORE PRESENTS AN EVEN MORE PROBLEMATIC RESOLUTION THAN THE ONE ORIGINALLY INTRODUCED BY THE FRENCH, I.E., A RESOLUTION THAT CREATES A WORKING GROUP TO DRAFT TREATY LANGUAGE ON DISAPPEARANCES WHILE, AT THE SAME TIME, AN INDEPENDENT EXPERT IS IN THE PROCESS OF EXAMINING THE NEED FOR ADDITIONAL INSTRUMENTS.

THIS COUNTER-INTUITIVE PROBLEM WAS NOTED BY SEVERAL DELEGATIONS, INCLUDING INDIA, WHICH POINTED OUT THAT THERE IS THE POSSIBILITY THAT THE EXPERT MAY CONCLUDE THAT INTERNATIONAL LAW IS SUFFICIENTLY WELL-DEVELOPED AND DOES NOT REQUIRE ANOTHER TREATY OR TREATY BODY. THE FRENCH DELEGATION ADMITTED THAT THE LATEST APPROACH WAS NOT THE MOST "CARTESEAN" SOLUTION, BUT SEEMS TO BE THE BEST WAY TO BRIDGE THE GAP BETWEEN THE GRULAC AND THOSE OPPOSING THE CREATION OF THE INTER-SESSIONAL WORKING GROUP.

3. THE NEW ZEALAND DELEGATION, SUPPORTED BY INDIA, THAILAND, UNCLASSIFIED

PAGE 03 GENEVA 01681 01 OF 02 191736Z U.K., NORWAY, PORTUGAL, CANADA, AND EGYPT, OFFERED ALTERNATIVE LANGUAGE FOR OP 11 AND OP 12 (SEE SEPARATE FAX).

ITS PROPOSAL WOULD APPOINT AN INDEPENDENT EXPERT TO EXAMINE EXISTING LAW ON DISAPPEARANCES AND TO REPORT HIS/HER FINDINGS TO THE COMMISSION TO ENABLE STATES TO CONSIDER THE PROPOSAL FOR AN INTERSESSIONAL OPEN-ENDED WORKING GROUP. AS A FAILBACK, THE U.K. PROPOSED AMENDING REV. 3 TO READ THAT "IF APPROPRIATE, IN LIGHT OF THE FINDINGS OF THE INDEPENDENT EXPERT," THE COMMISSION WOULD CREATE AN INTER-SESSIONAL OPEN ENDED WORKING GROUP." THESE SUGGESTIONS WERE MET WITH HOSTILITY BY ARGENTINA, WHICH SAID THAT IT WAS THROUGH NEGOTIATING, THAT REV. 3 WAS AS FAR AS IT WAS PREPARED TO GO, AND THAT IT WOULD PREFER TO TAKE THIS LANGUAGE TO A VOTE AS AN ALTERNATIVE TO FURTHER CONCESSIONS. GUATEMALA AND URUGUAY JOINED ARGENTINA IN THE SUBSTANCE, THOUGH NOT THE TONE, OF ITS INTERVENTION.

4. SEVERAL EUROPEAN COUNTRIES, INCLUDING SWITZERLAND, NORWAY, PORTUGAL, AND LICHTENSTEIN EXPRESSED CONCERN THAT, WITHOUT CONSENSUS, THE MANDATE OF THE PROPOSED INTERSESSIONAL WORKING GROUP WOULD BE DIMINISHED.

5. USDEL MADE POINTS IN REFTEL. AT CLOSE OF THE SESSION, FRANCE AGREED TO ATTEMPT TO REDELF OP 11 AND OP 12 ALONG THE LINES PROPOSED IN PARA. 1 ABOVE, I.E., SOME COMBINATION OF AUTHORIZED WORK FOR BOTH THE INDEPENDENT EXPERT AND THE WORKING GROUP.

6. THERE APPEARS TO BE LITTLE SUPPORT FOR THE U.S. POSITION
7. IN THE ABSENCE OF ATTEMPTING TO STRIVE TOWARD CONSENSUS BASED ON THE NEW ZEALAND TEXT, IT IS LIKELY THAT THE GRULAC WILL SUCCEED IN PASSING A TEXT CALLING FOR THE CREATION OF BOTH THE WORKING GROUP AND THE INDEPENDENT EXPERT. GUATEMALA DELEGATION ADVISED USDEL THAT THE CREATION OF THE WORKING GROUP WAS A PRIORITY, BECAUSE IT IS SEEN AS A NECESSARY FIRST STEP TOWARD ITS FULFILLMENT OF PEACE AGREEMENT OBLIGATIONS TO RATIFY AN INTERNATIONAL TREATY ON DISAPPEARANCES. ARGENTINA AND GUATEMALA NOTED THAT NO EXISTING INTERNATIONAL TREATY OR TREATY BODY (INCLUDING THE INTER-AMERICAN CONVENTION ON DISAPPEARANCES) IS SUFFICIENTLY COMPREHENSIVE, AND HENCE THE NEED FOR THE UN TO DO WHAT THEIR OWN GOVERNMENTS OR REGIONAL ORGANIZATIONS SO FAR HAVE FAILED TO ACCOMPLISH.
8. IT IS NOT CLEAR WHETHER ANY MEMBER WOULD CALL FOR A VOTE ON THE RESOLUTION AS PRESENTLY CONFIGURED. INDIAN DCM TALKED TO USDEL AFTER THE MEETING TO EXPRESS HIS CONCERNS WITH THE DIRECTION OF THE RESOLUTION, AND WISHED TO DISCUSS WHETHER OUR DELEGATIONS COULD COLLABORATE ON SOME AMENDMENT TO THE GRULAC FORMULATION. AUSTRALIAN AND CANADA BOTH ASKED USDEL IF WE INTENDED TO CALL FOR A VOTE. (COMMENT: IT APPEARS TO USDEL THAT A NUMBER OF MEMBERS ARE UPSET WITH THE DIRECTION)

9. ACCORDING TO CANADA, NEW ZEALAND, AUSTRALIA, JAPAN, INDIA, THAILAND, U.K., GERMANY, AND NORWAY ARE OPPOSED TO OP 11 AND OP 12 (INDEPENDENT EXPERT AND WORKING GROUP, RESPECTIVELY). CANADA SUGGESTED THAT THE US SHOULD CALL FOR A VOTE. IF USDEL CALLS FOR A VOTE, CANADA WOULD ABSTAIN, AND THE OTHERS WOULD PROBABLY ABSTAIN OR VOTE NO -- FOR ABOUT 20 ABSTENTIONS AND NO VOTES -- PER CANADA'S COUNT, WITH SOME DEVELOPING COUNTRIES JOINING THE ABSTAINERS. THIS COULD MEAN THAT THE WORKING GROUP IS EFFECTIVELY DEPRIVED ITS MANDATE, SINCE, EVEN IF THE THE RESOLUTION PASSES, THE WORKING GROUP STILL NEEDS TO OPERATE BY CONSENSUS. IT IS UNCLEAR WHY CANADA IS RELUCTANT TO CALL FOR THE VOTE ITSELF.

10. USDEL REQUESTS GUIDANCE ON WHETHER IT CAN JOIN NEW ZEALAND PROPOSAL FOR JUST THE CREATION OF AN INDEPENDENT EXPERT. USDEL RECOMMENDS THAT WE BE GIVEN THE LATITUDE TO SEEK CONSENSUS. AS NOTED, THE MOST LIKELY OUTCOME IN GENEVA IS THE REJECTION OF THE NEW ZEALAND FORMULATION. OUR ABILITY TO EFFECTIVELY INFLUENCE THE OUTCOME OF NEGOTIATIONS IS SUBSTANTIALLY DIMINISHED IF WE CANNOT PROVIDE SUPPORT TO NEW ZEALAND PROPOSAL.

11. USDEL ALSO REQUESTS GUIDANCE ON WHETHER WE SHOULD CALL
VOTE ON THE RESOLUTION. IF REFERENCE TO THE WORKING GROUP CAN BE REMOVED FROM OP 12, THEN WE DO NOT NEED TO OPPOSE THIS OPERATIVE PARAGRAPH. USDEL WOULD APPRECIATE FLEXIBILITY TO TRY AND WORK OUT APPROPRIATE AMENDMENTS WITH OTHER DELEGATIONS (I.E., THE NEW ZEALAND OPTION) SHOULD THAT COURSE PRESENT ITSELF.

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