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**EXECUTIVE COUNCIL  
Fifth Ordinary Session  
25 June – 3 July 2004  
Addis Ababa, ETHIOPIA**

**EX.CL/140 (V) Add.2  
Original: English**

**DEVELOPMENT OF AFRICAN POSITION ON  
INTERNATIONAL CONVENTION AGAINST THE  
REPRODUCTIVE CLONING OF HUMAN BEINGS**

***(Item proposed by the Republic of South Africa)***

**Short background discussion on the UN debate on the International Convention Against the Reproductive Cloning of Human Beings.**

In December 2001 France and Germany requested the UN General Assembly to ban Human Reproductive Cloning. They suggested that because the threat of human reproductive cloning was imminent, a convention to deal with this issue be developed immediately. They further suggested that this be followed by a separate convention that dealt with therapeutic cloning or research on stem cells.

The General Assembly in resolution 56/93 of 12 December 2001 established an Ad Hoc Committee on an International Convention against the Reproductive Cloning of Human Beings to consider the elaboration of a mandate for the negotiation of such a convention, including a list of existing international instruments to be taken into consideration and a list of issues to be addressed in the convention. The Assembly recommended that the work continue within the framework of a working group of the Sixth Committee. By decision 57/512 of 19 November 2002, after failing to reach agreement on a mandate, the General Assembly decided to convene a working group of the Sixth Committee from 29 September to 3 October 2003 to continue the work undertaken during UNGA57.

Despite support for the continued consideration of the topic and attempts based on various proposals to move forward, the aforesaid working group was unable to reach consensus on the mandate and scope of a future convention. The discussions in the working group continued to reveal a divergence of views among delegations. There was a clear division between those delegations who were in favour of a convention prohibiting all forms of human cloning and those delegations who favoured a more restrictive approach that would call for a convention prohibiting reproductive cloning of humans, but would also allow for other forms of cloning such as therapeutic cloning under a strict regulatory regime.

Some delegations supported a draft resolution proposed and tabled by Costa Rica on an international convention against human cloning that would place a total ban on the cloning of human beings. It also called for a prohibition on any research, experiment, development or application of any technique aimed at human cloning pending the adoption of the

convention. Supporters of this approach (the L.2 Group) expressed concerns that cloning for research or therapeutic purposes could be used to breach human rights and to violate human dignity. It was argued that embryos are human beings in the earliest states of formation and thus the killing of embryos for therapeutic purposes constituted a grave attack on the dignity of mankind. It was also stated that a partial ban limited only to reproductive cloning, would be false, ineffective and impossible to enforce since the same technique is used for both forms of cloning. In their view only a complete ban would achieve the goal of prohibiting human reproductive cloning.

Other delegations held a different view and recalled that the mandate of the aforesaid working group was limited to establishing a negotiating mandate for the elaboration of an international convention against reproductive cloning of human beings. They also highlighted the urgent need for an international ban on reproductive cloning given some announcements of the birth of cloned humans. The fact that there was general consensus on reproductive cloning should allow immediate action to ban such practice. Some delegations who supported a restricted ban pointed out that their domestic legislation already banned all forms of cloning, but that this approach would be the only possible basis on which to achieve consensus. Several delegations also described activities undertaken at the national level through legislation to regulate human embryonic research for non-reproductive purposes. It was pointed out that the decision to allow such research had followed from extensive national debates and consultations and that their national legislation provided for a strict regulatory regime. Delegations also pointed to the potential that therapeutic cloning offered for curing diseases and improving human life. It was observed that given the complexity of the issue, an approach that respected the diversity of views and beliefs among States offered the greater chance of success.

In an attempt to find a compromise between these positions, support was expressed for a revised Franco-German non-paper espousing a negotiating mandate for a comprehensive convention that would on the one hand adopt a strict ban on reproductive human cloning. While on the other hand seek to regulate other forms of cloning by giving future States parties the option either to ban or to impose a moratorium on such types of cloning, or otherwise to regulate them by means of national legislation. With this in mind, another draft resolution A/C.6/58/L8 was prepared and tabled by Belgium ( and supported by the L.8 Group) which called for the Ad Hoc Committee to reconvene and prepare on an urgent

basis, if possible by the end of 2004, a draft convention that would ban reproductive cloning and at the same time call on States that have not done so, to take action to control other forms of human cloning by adopting a ban or imposing a moratorium or regulating them by means of national legislation.

The aforesaid working group, unable to agree on a negotiating mandate for the Ad Hoc Committee, decided to refer its report to the Sixth Committee for consideration. It recommended that the Committee continue the consideration of the elaboration of a negotiating mandate taking into account the discussions in the working group.

Although the situation in the Sixth Committee remained deadlocked, with the two competing draft resolutions (supported by the L.2 and L.8 Groups respectively), some delegations could not make up their minds and wanted more time to consider the implications of this complex issue.

Following a meeting of the Ambassadors of Member States of the Organization of Islamic Conference (OIC), representing some 54 countries, they decided that they needed more time to consider the issue of human cloning and its implications. The OIC therefore proposed to introduce a procedural motion under Rule 116 of the Rules of Procedure to call for the adjournment of the debate on this issue for 2 years. The group of L.8 supporters as well as some L.2 supporters who are members of OIC supported this motion. This decision by the Sixth Committee was submitted to the General Assembly as part of the report on its work for final adoption by the General Assembly. On 7 November 2003 the motion was carried in the Committee by a vote of 80 in favour, 79 against and 15 abstentions. No action was therefore taken on the proposals before the Committee.

Following intensive consultations amongst those delegations who supported a ban on reproductive cloning but who wished to keep the question of therapeutic cloning open or at least under strict control, as well as with the OIC countries who called for the two-year deferral, it was finally agreed not to take action on the new draft resolution or on the Sixth Committee recommendation. Instead, the General Assembly decided by consensus to defer further consideration of this item for one year until its fifty-ninth session in September 2004.

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# Development of African position on international convention against the reproductive cloning of human beings (Item Proposed by the Republic of South Africa)

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