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Fifty-ninth General Assembly
Sixth Committee
27th Meeting (PM)

LEGAL COMMITTEE TEXT CALLS FOR FURTHER DISCUSSIONS ON HUMAN CLONING AIMED AT 'DECLARATION'

Recommends Establishment of Working Group to Convene in February; Also Approves Text on International Criminal Court, as Session Concludes

The Sixth Committee (Legal) this afternoon averted a divisive vote on the question of an international convention against human reproductive cloning by deciding to take up the issue again as a declaration at a resumed February session. The Committee also approved a draft resolution on the International Criminal Court without a vote, as it concluded its current session.

Italy's representative introduced the resolution containing a declaration on human cloning, which essentially replaces two earlier texts that aimed at a treaty on the issue, one proposed by Costa Rica and the other by Belgium. The declaration will form the basis for discussions of a working group that will meet on 14, 15 and 18 February, with the Committee taking action on its report on the afternoon of the last day.

By the declaration text, the Assembly would solemnly call on States to adopt and implement national legislation prohibiting attempts to create human life through cloning and to insure respect for human life in the application of science, particularly by barring the exploitation of women. States would also be called upon to prohibit genetic engineering techniques contrary to human dignity.

The Committee accepted the proposal to establish the Working Group after Committee Chairman Mohamed Bennouna of Morocco presented it, based on informal consultations. He said the Working Group would be open to all States and members of specialized agencies and of the International Atomic Energy Agency, with himself as chairman and the Committee bureau serving as "friends of the Chair".

He said the issue of cloning was a highly charged one. It would have been damaging for the Committee to not come together on a matter with such grave consequence for humanity. The text before the Committee enjoyed general support.

Vaclav Mikulka, Director of the Codification Division of the Legal Affairs Office and Committee Secretary, read out the programme budget implications of the proposal. He said the Working Group meetings would require no additional appropriations since they were to be held in place of the Ad Hoc Committee's meetings. The Committee's formal meeting to act on the Group's report was anticipated to be \$37,500 at full cost for conference servicing.

Wide divisions persisted on texts calling for treaties. The text sponsored by Costa Rica and others, called for the Assembly to affirm that the convention would not prohibit the use of nuclear transfer or cloning techniques other than those related to human embryos. The Assembly, however, would have

urged States to prohibit research aimed at cloning and all genetic engineering that adversely impacted on respect for human dignity pending elaboration and adoption of the convention.

The draft text, sponsored by Belgium and others, called for a convention to be elaborated on an urgent basis, possibly by the end of 2005. States would be obligated by it to ban reproductive human cloning with no possibility of reservation, and to take legislative measures to ensure that results of therapeutic cloning did not advance reproductive cloning. Meanwhile, States were to adopt national legislation banning reproductive human cloning, while taking control of other human cloning forms, such as embryonic stem cell research, by adopting a ban, imposing a moratorium or enacting regulatory legislation.

The text on the International Criminal Court, introduced today by the Netherlands on behalf of the bureau, would have the Assembly call on States to become parties to the Court's Rome Statute and its Agreement on Privileges and Immunities. It would be recalled that the Special Working Group on the Crime of Aggression was open to all. The Court's role in promoting justice and the rule of law would be noted and steps taken to make the Court functional would be welcomed, including the closing of trust funds for its establishment. Recalling the Relationship Agreement giving the Court observer status and reporting privileges in the Assembly, the item "Report by the International Criminal Court" would be included on the agenda of the Assembly's sixtieth session.

Speaking in explanation of position before action, the representative of the United States said he could not join in the consensus and his country's opposition to the Rome Statute remained clear and unchanged. The danger of politically motivated prosecutions was of deep concern. Nothing about the Court's structure provided assurance against political trials. The Court was an institution of unchecked power with its authority unconstrained by adequate checks or balances. The Rome Statute also provided insufficient opportunity for Security Council oversight. He could not support the International Criminal Court.

Further, he said the Court was an independent body with its own separate States parties. The Relationship Agreement between it and the General Assembly did not bind States who were non-parties to the Court with regard to the financial implications of the Court's activities. Full reimbursement of all expenses incurred by the United Nations on behalf of the Court was required. Also, agreements had been signed between his country and 96 nations to ensure that United States citizens and military personnel would not be surrendered to the Court. Finally, while he respected the right of States to become parties to the Rome Statute, the decision not to be a party should also be respected.

In explanation of position after action, Canada's representative said approval of the resolution sent a strong message about the Court's important role in eliminating impunity with the worst crimes against humanity. The concerns of those who were not States parties were misguided. Undermining the Court sent the wrong message, as a signal to the forces of impunity.

With regard to two instruments on international terrorism already acted on, the Russian Federation announced that intensive consultations since then had led to consensus on the text for suppression of nuclear terrorism. He said the rules of procedure should be waived and the item taken up directly in the Assembly plenary.

Speaking on behalf of the regional groups to commend the Committee's conduct of the session were the representatives of Nicaragua, Gambia, Indonesia, Brazil, Turkey, and New Zealand.

The Committee decided to take up the question of its provisional work programme for next year at its resumed session in February. It is expected to present its recommendations to the General Assembly on Thursday, 2 December.

The Committee is expected to meet again in plenary at 3 p.m. 18 February 2005.