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Commission on Human Rights, 60th Session (15 March - 23 April 2004) The human rights scandal of Guantanamo Bay

Amnesty International welcomes consideration by the UN Commission on Human Rights of the situation of the detainees at Guantanamo Bay. This is long overdue.

More than two years after the first of the detainees arrived in the US Naval Base in Guantanamo Bay, Camp X-Ray and its successor Camp Delta, the United States Government continues to exert unfettered executive power in total disregard for the rule of law. Hundreds of detainees remain held in tiny cells for up to 24 hours a day without any legal process.

International law has been flouted from the outset. None of the detainees was granted prisoner of war status nor brought before a competent tribunal to determine his status, as required by the Third Geneva Convention. None has been granted access to a court to be able to challenge the lawfulness of his detention, as required by the International Covenant on Civil and Political Rights (Article 9) to which the United States is a party. Detainees have been denied access to legal counsel and their families. When a state, let alone one as powerful as the United States of America, adopts a selective approach to international law and standards, the integrity of those standards is eroded.

While welcoming that the Commission will consider the arbitrary detention of the detainees at Guantanamo Bay, Amnesty International is concerned that the Commission has not been asked to consider other human rights violations involving the detainees. These include the cruel, inhuman and degrading treatment of detainees and *refoulement* to countries where released detainees are in danger of torture or other serious human rights violations.

The International Committee of the Red Cross has taken the unusual step of going public about the deterioration in mental health it has witnessed among many of the detainees as a result of the indefinite and isolating incarceration regime. Amnesty International considers the totality of the conditions in which most of the detainees in Guantanamo Bay are held amounts to cruel, inhuman and degrading treatment.

According to a statement by the Department of Defense on 2 April 2004, 146 prisoners have been transferred from Guantanamo Bay to their countries of origin leaving "approximately 595" detainees in the base. Most have been released upon return, but at least 12 have been transferred for continued detention in their home countries. While welcoming releases, Amnesty International is concerned that some detainees may be at risk of serious human rights violations if returned to their home countries for continued detention. Amnesty International considers that the US authorities have a responsibility to

ensure that the human rights of the detainees will be fully respected after their transfer.

Guantanamo Bay is a human rights scandal, and Amnesty International believes that the Commission on Human Rights must urgently address this situation in all its aspects. Amnesty International considers that draft resolution L.88 on the question of arbitrary detention in the area of the U.S. naval base in Guantanamo is a welcome development, but it does not go far enough.