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SESSIONAL WORKING GROUP ON THE IMPLEMENTATION OF THE INTERNATIONAL
COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

SUMMARY RECORD OF THE 4th MEETING

Held at Headquarters, New York,
on Tuesday, 15 April 1980, at 10.30 a.m.

Chairman: Mr. NAGY (Hungary)

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by States parties concerning rights covered by articles 6 to 9 of the Covenant

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The meeting was called to order at 10.45 a.m.

CONSIDERATION OF REPORTS SUBMITTED IN ACCORDANCE WITH COUNCIL RESOLUTION 1988 (LX)
BY STATES PARTIES CONCERNING RIGHTS COVERED BY ARTICLES 6 TO 9 OF THE COVENANT

1. The CHAIRMAN informed the Working Group that the time-table for consideration of the reports of States parties (E/1980/WG.1/L.1) had been transmitted to all reporting States.

Report of Ecuador (E/1978/8/Add.1)

2. Mr. ALBORNOZ (Ecuador), introducing the first report submitted by his Government under article 16 of the Covenant, recalled that his country had been among the first to ratify the International Covenant on Economic, Social and Cultural Rights and the first to submit a report on its implementation.

3. Major institutional developments had taken place in Ecuador since the presentation of the first report in September 1977. Those developments reaffirmed his country's commitment to the defence of democracy and human rights and to the promotion of economic development in a climate of social justice and ideological pluralism. The new President, Jaime Roldós, had been elected by an overwhelming majority in free elections held in April 1979 and was a staunch defender of human rights. A new Constitution, adopted by national referendum with full popular participation and the participation of all political parties, had entered into force on 10 August 1979 - the day on which the President had taken office.

4. The new Constitution reaffirmed existing principles of Ecuador's legal system but included new provisions inspired, inter alia, by debates in different international organizations. Article 31 of section V, for instance, now provided protection not only for workers but also for their families. The same article indicated that labour legislation was designed to eliminate unemployment and in case of doubt was to be interpreted in the manner most favourable to employees. Workers' wages were guaranteed and employees shared in the profits of their enterprise. The rights of association, strike and lock-out were guaranteed by law.

5. Articles 29 and 30 of the new Constitution guaranteed workers and their families full rights to social security in case of sickness, maternity, disability, old age, death and unemployment. Attempts were being made to extend social security coverage to the entire population. Measures were also being taken to provide health care to the population and to improve environmental hygiene, as part of the socialization of medicine and social assistance. Effective participation in community development was being encouraged, particularly in the countryside, as were programmes of inexpensive, sanitary housing. Social services were being provided for women and their integration into the country's development process was being encouraged. The new Ministry of Social Welfare and Popular Advancement was in fact to be headed by a woman.

6. The National Development Plan for the period 1980-1984, which had been the subject of exhaustive popular debate, was binding on the public sector and was to

(Mr. Albornoz, Ecuador)

serve as a guideline for the private sector. Its aim was to direct the country's efforts and resources towards social justice, more equitable income distribution, and the elimination of unemployment and underemployment, so that the entire population had access to health, education, housing and social security. The Plan regarded the individual as both the focal point and the main protagonist of the country's economic, social, political and cultural organization and was designed to benefit national majorities and ensure full respect for public freedoms and human rights. It envisaged broad action to promote national integration by means of industrial decentralization, improved communications, literacy teaching, the promotion of indigenous culture, the defence of cultural values, training, popular organization, job creation, improved salaries, social services, agrarian reform and the reorientation of public spending in favour of the weakest economic and social groups.

7. It was 52 years since the first Social Security Act had been promulgated in Ecuador. The Compulsory Social Insurance Act had been promulgated in 1942 and more than a hundred reforms had been enacted since then. The new Constitution gave the State prime responsibility for improving the social security system, and government authorities were currently drafting a new bill strengthening the principles of universality and uniformity in the social security system and applying the system at three levels: compulsory, voluntary and supplementary. Sickness insurance had been extended to cover a worker's family, the wife of the insured person received maternity benefits, and attempts were being made to integrate 6.8 per cent of the rural population into the social security system as a first step towards promoting that fundamental sector of the population.

8. It was thus clear that Ecuador's social and labour legislation was being constantly improved and updated, and he wished to make available to the Working Group the texts of the new Constitution and the latest National Development Plan as an illustration of those developments.

9. His delegation concurred with the findings of the ILO report (E/1978/27) with regard to Ecuador. Clearly, there were some areas in which labour and social legislation had yet to be fully implemented, but his Government was making every effort towards that end.

10. Mr. VOLLERS (Federal Republic of Germany) said that he was most impressed with both the report submitted by Ecuador and its presentation. It was clear from that presentation that remarkable social developments had taken place in Ecuador since the report had been submitted.

11. Paragraph 3 of the Ecuadorian report (E/1978/8/Add.1) emphasized that work was a "social duty". On page 14 of the ILO report (E/1978/27), however, it was observed that there was considerable underemployment in Ecuador, particularly in rural areas. He was curious to know whether steps had now been taken to remedy that situation.

12. On page 15 of the ILO report it was noted that ILO had requested the Government of Ecuador to amend the Labour Code to give workers not bound by a contract of unspecified duration the right to resign whenever they wished - a right not provided by the existing Labour Code. He wished to know whether the new Government intended to amend the Labour Code as requested.

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(Mr. Vollers, Federal Republic of Germany)

13. Paragraph 9 of the report submitted by Ecuador referred to measures for the protection of working mothers. As also described on pages 11 and 12 of the Secretary-General's analytical summary (E/1979/14), such social legislation was most progressive. On page 16 of the ILO report, however, it was observed that there was still discrimination against working women, which the Government of Ecuador hoped to eliminate. In his view, such discrimination was difficult to eliminate by legislative means alone, for it often persisted in practice, for instance in jobs where only women were employed, despite legislation to the contrary.

14. Paragraph 11 of the report by Ecuador described the scheme whereby workers shared in the profits of the enterprise. Such a scheme was very interesting, and his delegation would welcome further information on it, since so far attempts in his own country to find a satisfactory means of introducing such schemes had failed.

15. Paragraph 20 of the report submitted by Ecuador described a very novel scheme for using social insurance for such other purposes as mortgages and loans. His delegation would welcome an explanation as to how that scheme functioned in practice. It would also welcome information as to how the Government planned to extend social insurance to agricultural workers and whether medical care had been extended to workers' families, a possibility mentioned on page 20 of the ILO report.

16. Paragraph 47 of the report submitted by Ecuador indicated that there was no unemployment insurance as such in Ecuador, but that workers received a lump sum settlement on termination of employment. He wished to know whether workers always received such a settlement and what assistance, if any, they received once that sum had been used up. He also wondered whether any progress had been made in Ecuador's efforts, as mentioned by ILO, to harmonize its social legislation with that of other Andean Group countries.

17. Ms. RICO (Spain) expressed appreciation for the excellent presentation of the report by Ecuador, which shed light on the situation in that country and on recent political developments that were of special interest to her country.

18. Mr. ABDUL-AZIZ (Libyan Arab Jamahiriya) said that his delegation was very impressed with the Ecuadorian report. It would welcome some clarification, however, with regard to paragraphs 5 and 47 thereof.

19. Mr. SALMENPERÄ (Finland) observed that, before proceeding any further, the Working Group should devise some criteria for evaluating country reports, for the purposes of its report to the Economic and Social Council. Clearly, its report to the Council could not include detailed questions and answers on each country's implementation of the Covenant, but answers could be sought to such standard questions as: what rate of unemployment was there in the reporting country; were there authorities responsible for education and welfare; was there a system for fixing minimum wages; were there different wage scales for men and women; could labour inspectors enforce labour legislation in the work place; did the working day exceed 12 hours; was there less than 10 hours of rest between working days; was there a minimum of 18 days of annual leave; did the working week exceed 45 hours;

(Mr. Salmenperä, Finland)

were there limits on overtime; was there compulsory strike arbitration; was there obligatory registration for unions and could unions appeal against denial of registration; was at least 30 per cent compensation for loss of earnings guaranteed; and did social security cover the entire population.

20. With regard to the report submitted by Ecuador, annual leave appeared to be shorter than average and he wondered whether the Ecuadorian Government planned to increase it. He also wished to know what was meant by "improper" dismissal as referred to in paragraph 8 of that country's report and whether compulsory strike arbitration tended to be the exception or the rule. He was curious to know what was meant by "great difficulties" in paragraph 24 and whether there were statistics available on the number of workers not covered by social security in Ecuador.

21. Mr. DIA (Senegal) commended the report submitted by Ecuador and its presentation by the representative of that country. His delegation wished to know what exceptions were envisaged by the phrase "except as provided by law" in the first sentence of paragraph 10, and would welcome a clarification from the representative of Ecuador concerning his references to the socialization of medicine and a more equitable distribution of income.

22. Mr. BYKOV (Union of Soviet Socialist Republics) expressed appreciation for the additional information provided by the representative of Ecuador and for the importance which Ecuador attached to the implementation of the Covenant.

23. His delegation believed that the consideration of country reports would give the Working Group an opportunity to see how the Covenant was being implemented in different countries and to determine how the greatest possible number of States might be encouraged to accede to the Covenant. It would not, however, be appropriate at the present stage to adopt rigid criteria for the evaluation of country reports, although some of the sample questions suggested by the representative of Finland were most interesting.

24. He wondered whether the representative of Ecuador could provide further details on such points as the payment of compensation in respect of occupational diseases and industrial injuries.

25. Mr. VOICU (Romania) commended Ecuador on its excellent report and its speedy ratification of the Covenant. His delegation welcomed the opportunity for an exchange of information on the economic and social development of Ecuador, a fellow member of the Group of 77, and for a dialogue with that country.

26. At the Working Group's 2nd meeting, the representative of Ecuador had emphasized that the Group should not adopt inflexible procedures. His delegation endorsed that view and the comments just made by the representative of the Soviet Union to the effect that it would be premature to adopt rigid criteria for the evaluation of reports.

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(Mr. Voicu, Romania)

27. Paragraph 3 of the Ecuadorian report referred to work as a "social duty". Such a concept was fundamental to the philosophy of developing countries, and he was curious to know how it had been incorporated into Ecuador's legislative and political system and how it was interpreted in that country. Such information could prove relevant to the consideration of reports from other developing countries. With regard to paragraph 10 of the same report, his delegation was curious to know what administrative, organizational and practical steps the Government of Ecuador had taken to ensure that young people participated in the development process, as was normal in developing countries, while at the same time respecting legislation on the employment of minors.

28. Mr. ALBORNOZ (Ecuador) said that there were a number of different approaches that might have been adopted in order to establish a procedure for dealing with questions and answers relating to reports under the Covenant. The question of statements by representatives of specialized agencies should be set aside until he had answered the questions posed by members of the Working Group. He wished to point out that the views of the International Labour Organisation concerning the report submitted by his country (E/1978/8/Add.1) had already been expressed in that organization's report under article 18 of the Covenant (E/1978/27).

29. He first of all wished to answer the questions raised by the representative of the Federal Republic of Germany. With regard to the question of unemployment, an industrialization programme designed to generate employment was under way. However, his country's most serious problem was in fact underemployment. Despite the efforts the Government had made, Ecuador was still confronted with many problems. For example, in spite of its literacy campaign, his country still had a high percentage of illiterates and therefore did not have a high proportion of skilled workers in its labour force. A large proportion of the national budget was set aside for education purposes, since education was the key to improved employment conditions. It must also be borne in mind that his country was suffering the severe consequences of the inequalities in international trade. His Government was making every possible effort to generate employment; for example, it was seeking new markets and opening up new land for agriculture.

30. The philosophy of the Government of Ecuador rested on three bases: the economic development of the country, social justice and production. Since, without production, there could be no economic development and no social justice, work was regarded as a patriotic duty. The new 1978 Constitution expanded on the concept set forth in the report, by stating that work was a right as well as a social duty. The right to work and a worker's dignity were protected by the law, which also required a worker to receive payment enough to cover his own needs and those of his family, and stipulated that an employer's first responsibility was to pay his employees.

31. With regard to the Labour Code, there had been no recent reforms but reforms were currently under consideration. In the meantime, where there were any doubts in a labour dispute, decisions were in favour of the worker, who was the weaker party.

(Mr. Albornoz, Ecuador)

32. There was no discrimination against women in employment in his country. However, they did not carry out heavy physical work. As to the equality of men and women before the law, the principle of equal pay for equal work was recognized as a right.

33. The concept of profit-sharing was included in his country's Constitution and in its Labour Code. Article 96 of the Labour Code stipulated that employees were entitled to 15 per cent of their company's annual net profit; 10 per cent of the company's net profit was paid direct to its employees and the remaining 5 per cent was distributed to employees who were heads of households where there were children under 18 years of age. The country's labour administration included regional directors of labour and a number of labour inspectors. It was the inspector who, together with representatives of the employers and the workers, was responsible for deciding how to apportion the 5 per cent of profits just mentioned. If any party wished to contest the apportionment made by the panel, he could appeal to the regional director. Sums of money received under the profit-sharing scheme were not in any way considered part of an employee's salary.

34. With regard to the question of social security and housing, his country's social security authorities were seeking to provide assistance in remedying the housing shortage. They had, for example, been successful in preventing the growth of marginal populations around the cities. Sanitary, low-cost housing had been constructed with social security funds, and a number of new neighbourhoods had thus been established in the suburbs of the principal cities. Such projects had even been extended to the Amazon region and to a number of rural areas. So far, approximately half a million persons had benefited from such efforts. Under that system a loan was granted to the employee in the form of a mortgage, which was then repaid by means of deductions from his salary.

35. The aim of draft social security legislation currently under consideration was to extend sickness insurance to the members of the insured person's family. The proposed insurance scheme would operate in conjunction with medical associations and clinics and would thus not result in a costly medical infrastructure. Moreover, the social security authorities maintained a number of hospitals for persons currently insured, and maternity insurance had been extended to cover the spouse, as well as cases of cohabitation.

36. With regard to the question of unemployment compensation, while employees who had been dismissed were searching for new employment they could draw social security benefits or take out loans. The Andean Group, of which his country was a member, was seeking ways of standardizing the labour legislation of the five member countries. The aim was to prevent difficulties relating to migrant workers from arising by providing similar guarantees and incentives in all of the five countries. It was to be hoped that over the next five years progress would be made regarding the integrated legislation of the Andean Group. The Andean Group was already making progress with respect to greater integration of labour, health and cultural matters.

37. There were a number of guarantees where dismissal from employment was concerned. He referred to article 155 of the Labour Code, whose provisions regulated such

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(Mr. Albornoz, Ecuador)

matters as payment of compensation upon dismissal, the amount of notice to be given by either the employer or the employee, and dismissal of union leaders. He also wished to point out that, with respect to remuneration, his country's legislation provided for a 'fifteenth' month.

38. With regard to the question raised by the representative of the Libyan Arab Jamahiriya concerning paragraph 5 of the report (E/1978/8/Add.1), there was equal remuneration in his country without discrimination as to sex, race, nationality or religion. The reference to protection of a worker's wages against any reduction or discount not authorized by law and against forms of payment other than those in legal tender related to the former system under which employees incurred debts in company shops. As for paragraph 47 of the report, he had already touched on its subject-matter.

39. Mr. AL-KAISI (Iraq) observed that Ecuador's new Constitution must have had an impact on, for example, cultural values. It was therefore to be hoped that the new philosophy reflected in that Constitution would soon be put into practice. He endorsed the remarks made by earlier speakers in that regard.

40. Mr. HARASHIMA (Japan) stressed the importance of paragraph 3 of the report submitted by Ecuador. It was interesting that, whereas article 6 of the International Covenant on Economic, Social and Cultural Rights recognized the right to work, work was considered a duty in Ecuador, even though there was some unemployment in all countries.

41. He noted with interest the statement made by the representative of Finland. The question of criteria should be given serious consideration at some stage. If a questionnaire could be drawn up, it would be of great assistance to States submitting reports and would facilitate the proceedings of the Working Group.

42. Mr. VOLLERS (Federal Republic of Germany) supported the statement made by the representative of Japan. A questionnaire would make it possible to compare the many reports before the Working Group. Moreover, it was sometimes difficult for non-experts to consider the reports in the light of the articles of the Covenant.

43. The CHAIRMAN announced that the representative of the International Labour Organisation wished to make a statement.

44. Mr. BYKOV (Union of Soviet Socialist Republics) said that the question of methods of work had already been considered. Since the representative of Ecuador had already presented his country's report and members of the Working Group had raised questions in that regard, it was not appropriate at the present stage to digress from the question under consideration by hearing the representative of the International Labour Organisation.

45. Mr. VOICU (Romania) endorsed the view expressed by the representative of the Soviet Union.

(Mr. Voicu, Romania)

46. With regard to the suggestion put forward by the representative of Japan, he felt that it was premature to speak of questionnaires. After a number of meetings had taken place, a method of work would have developed spontaneously. Moreover, if a representative wished to reply to questions at a subsequent meeting, so that he could prepare his answer in the intervening time, he should be given the opportunity to do so.

47. Mr. VOLLERS (Federal Republic of Germany) referred to articles 16 to 20 of the Covenant dealing with participation of specialized agencies, to paragraph 10 of Council resolution 1979/43 and to paragraph 9 (b) of Council resolution 1988 (LX). Written and oral statements by the representative of the International Labour Organisation should be considered at any time by the Working Group, and the representatives of specialized agencies should be permitted to take an active part in the Working Group's deliberations.

48. The CHAIRMAN announced that the representative of Ecuador wished to make a further statement.

49. Mr. ALBORNOZ (Ecuador) said that, although the amount of annual leave provided for in Ecuador seemed small, it was considerably supplemented by religious and national holidays. The Government had just passed a decree reducing the maximum working week from 44 to 40 hours, so that there was now a two-day week-end. The maximum time which could be spent daily on any job underground remained at six hours.

50. There were still Ecuadorians who did not have social security coverage, but it must be remembered that the country's institutions were still developing. The Government was trying to extend coverage to such people, but its efforts were hampered by widespread illiteracy and the fact that many lived in very remote, and often very high, areas. A special department had been set up to deal with social security as it related to rural dwellers, and expanding the scope of social security coverage remained one of the aims of the new labour legislation currently being drawn up. The entire country was aware that additional revenues received must be used to improve the lot of the rural population. Indeed, Ecuador's modest income from oil exports in recent years had been largely used for just that purpose.

51. The most important thing was not, however, the number of people registered for social security benefits. The Government's greatest concern was with education, environmental sanitation and housing, which would bring immediate improvements in living standards.

52. Work by minors was prohibited under the law except where, for family reasons, parents needed their children's assistance. Work by children under 14 years of age was prohibited under chapter VII of the Labour Code, except where a child was engaged in domestic work or was serving an apprenticeship within the meaning of the law.

53. Ecuador had a system of insurance covering industrial accidents and occupational diseases. Varying amounts were payable under the social security system in accordance with the severity of the illness or disability caused. The

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(Mr. Albornoz, Ecuador)

Government had issued a number of decrees concerning working conditions, and a variety of sanctions were available for use against employers who failed to comply with its requirements.

54. In concluding, he commented that it would be very useful to send out a questionnaire to States parties indicating the kind of information the Working Group required, and expressed his readiness to answer any additional questions which members of the Group, or the representative of ILO, might wish to ask.

55. Mr. BYKOV (Union of Soviet Socialist Republics) said it was clear to his delegation that the report presented by the representative of Ecuador, together with his additional replies, satisfied the requirements of article 16 of the Covenant. He hoped that the additional information provided by that representative would find an appropriate place in the report of the Working Group to the Economic and Social Council.

56. The CHAIRMAN suggested that, once the members of the Group had finished their consideration of the report of a given country, the representatives of the specialized agencies should be permitted to raise questions concerning that report, on the understanding that it was for the representative of the Government concerned to decide whether he would respond to them.

57. Mr. BYKOV (Union of Soviet Socialist Republics) said he feared that that suggestion might lead to a situation in which, once the members of the Group had finished their questioning, the representative of a State might be faced with a new series of questions from the specialized agencies. The Group should not create unforeseen difficulties for itself at such an early stage in its work.

58. A specific procedure had been laid out for the Group's consideration of reports by States parties to the Covenant. The consideration of Ecuador's report, conducted on the basis of that procedure and the gentlemen's agreement worked out the day before, had gone quite smoothly. A discussion of the status of the reports of the specialized agencies might slow up the proceedings. In his delegation's view the contribution of the specialized agencies consisted in being present to hear, firsthand, additional information on how the Covenant was being implemented.

59. Mr. ABDUL-AZIZ (Libyan Arab Jamahiriya), supported by Mr. AL-KAISI (Iraq) and Mr. DIA (Senegal), suggested that the Group should seek legal advice on the right of the specialized agencies to participate in the discussion of country reports.

60. Mr. AGBASI (Secretary of the Working Group) said that it was beyond the powers of the Legal Counsel to tell any United Nations body how to interpret its own mandate. The Working Group would have to reach its own decision on its method of proceeding.

61. Mr. BYKOV (Union of Soviet Socialist Republics) expressed regret that the Group was being sidetracked from its substantive work just when it seemed to have all but completed its consideration of the report by Ecuador.

62. The CHAIRMAN suggested that the Group should agree that it had completed its discussion of the report of Ecuador.

63. Ms. RICO (Spain) asked whether, in declaring that it had completed its consideration of the report of Ecuador, the Group would in effect be precluding the representatives of the specialized agencies from speaking about that report.

64. Mr. HARASHIMA (Japan) endorsed the point made by the Spanish representative. The Group must apply the same procedure to all the reports it discussed. For that reason, although his delegation was fully satisfied with the information supplied by the representative of Ecuador, he did not believe that the Group was currently in a position to declare it had completed its consideration of the Ecuadorian report. He suggested that the meeting should be adjourned in order to allow delegations time to consider the matter.

65. Mr. VOLLERS (Federal Republic of Germany) supported the Japanese proposal.

66. Mr. BYKOV (Union of Soviet Socialist Republics) said it was regrettable that some representatives on the Group, having previously agreed to make a start on the Group's substantive work, now seemed bent on hampering it in the implementation of its mandate.

The meeting rose at 1.15 p.m.

