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Chairman: Mr. MAVROMMATIS

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QUESTION OF THE CO-OPERATION BETWEEN THE COMMITTEE AND THE SPECIALIZED AGENCIES CONCERNED (agenda item 6) (CCPR/C/L.3 and Add.1)

1. The CHAIRMAN said that under agenda item 6 the Committee might possibly decide whether to transmit certain documents to the specialized agencies.
2. Mr. OPSAHL regretted that the Committee did not have a document listing the various possibilities open to it for obtaining the co-operation of the specialized agencies, perhaps because it had not entrusted the task of determining those possibilities either to a working group or to the Secretariat. Information was needed on the extent to which the Committee could be useful to the specialized agencies and vice versa, and on how to avoid overlapping. In order to answer those questions, more information would be needed on the procedures adopted by the specialized agencies in the field of human rights, and on the practical aspects of co-operation between the Committee and the specialized agencies.
3. The CHAIRMAN thought that the representatives of specialized agencies present might perhaps be able to supply the information desired.
4. Mr. IALIAH pointed out that, under rule 67 of the provisional rules of procedure, it was possible to transmit to the specialized agencies concerned copies of such parts of the reports from States members of those agencies as might fall within their field of competence, and that the Committee might invite the specialized agencies to submit comments on those parts. In that connexion, the Committee should state how it planned to co-ordinate any steps which the specialized agencies would be prepared to take to assist it in the discharge of its duties. The specialized agencies' participation should be viewed in the context of the procedure the Committee intended to follow in respect of the reports considered. He wished to know the opinion of the other members of the Committee on that point.
5. Sir Vincent EVANS drew attention to the possibility that a conflict might arise between the work of the specialized agencies and that of the Committee. Article 5 of the Optional Protocol stated that the Committee should not consider any communication from an individual unless it had ascertained that the same matter was not being examined under another procedure of international investigation or settlement, and it was possible that one or several specialized agencies might have adopted or intended to adopt procedures of investigation or settlement likely to effect the implementation of article 5 of the Optional Protocol. Whenever consideration of a communication involved the implementation of that article, co-operation between the secretariat of the Committee and that of the specialized agency concerned would become necessary; a procedure permitting rapid consultation for that purpose would therefore have to be found. The representatives of the specialized agencies might perhaps indicate whether their organizations had established, or planned to establish, procedures of investigation or settlement relevant to the implementation of article 5 of the Optional Protocol.
6. Mr. HANGA said that the problem of co-operation between the Committee and the specialized agencies, which was one of great importance, should be approached on the basis of three considerations, the first of which was the participation of the representatives of international organizations in the Committee's work. The documents of general distribution and the public meetings of the Committee did not

give rise to any difficulty, but it should be borne in mind that the Committee sometimes held closed meetings, mainly when it examined the communications referred to in the Optional Protocol.

7. The second consideration was that the Secretary-General of the United Nations might, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as might fall within their field of competence (article 40, paragraph 3, of the Covenant and rule 67, paragraph 1, of the provisional rules of procedure). Rule 67, paragraph 2, went even further than the Covenant, since it stated that the Committee might invite the specialized agencies to submit comments on those parts within such time-limits as it might specify. In so far as the Covenant represented the Committee's basic document, the question arose to what extent the Committee was entitled to invite the specialized agencies to submit comments on the parts of reports transmitted to them.

8. The third aspect of the problem which required some thought concerned the studies and official documents of the specialized agencies which the Committee might request for examination. The question arose whether the statutes governing the activities of the specialized agencies enabled them to meet such a request.

9. The CHAIRMAN said that the wording of rule 67, paragraph 2, of the provisional rules of procedure implied a discretionary power. The authors of that paragraph had considered that the comments referred to might be useful.

10. Mr. GANJI said that the Covenant covered a series of rights of concern to all United Nations bodies and the specialized agencies in particular since there was an ILO convention on employment and a UNESCO convention against discrimination in education. Forced labour, for example, had been the subject of a number of activities, and there were several ILO conventions or decisions on that question. If the definition of forced labour adopted by the Committee were different from that of ILO, the latter should no doubt take account of that fact. Similarly, it was to the Committee's advantage to consider the studies already completed in order to avoid conflicting decisions at the international level and any incompatibility between the obligations incumbent on States parties to both the Covenant and to ILO or UNESCO conventions. An exchange of views was therefore necessary, and the relevant documents of the Committee should be made available to the specialized agencies. It would perhaps be worthwhile to apply the principles governing the exchange of documentation between specialized agencies and the United Nations.

11. With regard to the Committee's meetings, it would be useful for representatives of specialized agencies to attend public meetings, and it was for the Committee to decide whether they should also attend closed meetings.

12. He agreed with Mr. Opsahl that the Committee would need a brief document analysing the question at issue, even though some information was already available on the approach adopted by the Committee on the Elimination of Racial Discrimination in establishing relations with the specialized agencies. He would also like to know the opinion of the representatives of the specialized agencies concerning the extent to which the obligations deriving from accession to the Covenant fell within the competence of ILO and UNESCO, for example, and how those institutions dealt with such matters.

13. Mr. TOMUSCHAT said that the arguments adduced by Mr. Ganji in favour of close co-operation between the Committee and the specialized agencies were cogent. Moreover, although article 40, paragraph 3, of the Covenant stated that such parts of the reports as might fall within the field of competence of the specialized agencies might be transmitted to them, that was certainly not solely in the interests of those agencies; the Committee, too, stood to benefit, and it was therefore normal that the specialized agencies should submit comments to the Committee on those parts of the reports transmitted to them. On that point, article 67, paragraph 2, of the provisional rules of procedure was undeniably in harmony with the Covenant.

14. In many respects, United Nations instruments were to some extent "in competition" with one another for they sometimes guaranteed the same rights. Co-ordination within the system was therefore necessary. Moreover, the Committee's task would certainly be facilitated if it could profit from experience gained elsewhere. The representatives of the specialized agencies should therefore be given an opportunity to express their views on the co-operation that could be initiated between the agencies and the Committee, and also on the relations established between them and other committees, such as the Committee on the Elimination of Racial Discrimination.

15. Mr. TARNOPOLSKY also considered it necessary that the Committee should obtain information from bodies involved in similar work, since it was clear that the Covenant covered a very wide field and the Committee's task was almost Herculean.

16. With regard to article 40, paragraph 3, of the Covenant, it would be practically pointless if what was intended was merely the transmission of parts of the report to the specialized agencies, since the reports were available to the bodies concerned. The intention of those who had drafted paragraph 3 had certainly been to ensure that comments were sent to the Committee, even if they were in no way binding on it. Moreover, the Committee on the Elimination of Racial Discrimination had also decided that such contacts were effective. Article 67, paragraph 2, of the provisional rules of procedure therefore undoubtedly corresponded to the intention of the authors of article 40 of the Covenant.

17. The remaining question was that of the procedure to be followed, and it would be useful for the representatives of the specialized agencies to describe the practice adopted by those agencies with respect to the Committee on the Elimination of Racial Discrimination. The question arose whether the application of article 40, paragraph 3, of the Covenant in too literal a manner might not raise technical problems, since it would certainly be rather difficult to determine which parts of a report fell within the competence of a particular specialized agency. There was, however, no doubt that genuine co-operation with the specialized agencies was needed.

18. Mr. GRAEFERATH said that all the members of the Committee were anxious to establish close relations of co-operation with the specialized agencies within the framework of the Covenant: the Committee could benefit from the experience gained by the specialized agencies in their fields of competence and, conversely, it would

certainly be in the interest of the agencies to acquaint themselves with the Committee's work. The presence of representatives of specialized agencies at the Committee's meetings, which would make the prompt exchange of information possible, was highly desirable in the case of public meetings but did not seem possible at closed meetings. The establishment of observer status - which was not provided for either in the Covenant or in the provisional rules of procedure - would only cause difficulties. In any event, it was still too early to draw up precise rules and the best solution would be for the Committee first to acquire experience through a pragmatic approach to the problem.

19. The best way of implementing article 40, paragraph 3, of the Covenant would appear to be for the Secretariat to indicate, at the beginning or at the end of a Committee meeting, the parts of a report which it proposed to transmit to the specialized agency concerned in order to obtain the Committee's consent. However, the procedure laid down in that paragraph did not empower the Committee to request a specialized agency to submit comments on the report of a State party, and the reason why the authors of the Covenant had thought such a provision necessary, was that they had not been aware at the time that the Committee's documents would be documents of general distribution. A specialized agency which observed that a State had not fulfilled its obligations under the Covenant would be in the position of a State party which claimed that another State party was not fulfilling its obligations. Article 41 of the Covenant, however, laid down a special procedure for such situations. The Committee would be exceeding its powers if it attempted to change the procedure provided for in article 41 by substituting the comments of a specialized agency for those of a State party. The Committee should avoid any comments or acts likely to dissuade States from co-operating with it: States were under an obligation to submit reports, but not to agree that the procedure laid down in article 40 of the Covenant should become a procedure of inquiry. Moreover, since the process of ratification was still in an early stage, the Committee had every reason to act with caution. In sum, the information and comments which the Committee might request from the specialized agencies could only refer to their practice and experience, and that was the manner in which article 67, paragraph 2, of the Committee's provisional rules of procedure should be interpreted.

20. It was no doubt to be regretted that no draft had been prepared on co-operation between the Committee and the specialized agencies; but it was perhaps still early to do so, and it would be better to hear the representatives of the specialized agencies first, in the hope of facilitating the discussion and the search for a solution to the problems.

Mr. Koulishhev (Vice-Chairman) took the chair.

21. Mr. PRADO VALLEJO noted that all speakers had recognized the desirability of effective co-operation, which was indeed provided for under article 40 of the Covenant and rule 67 of the Committee's provisional rules of procedure. Under those provisions, the Secretariat was called upon to provide guidelines for the Committee with regard to the co-operation procedures to be followed in accordance with the field of competence of the agencies concerned. It should be noted in

passing that article 67, paragraph 2, envisaged the possibility of inviting the specialized agencies to submit comments, so that the Chairman could legitimately allow representatives of the specialized agencies present at the current meeting to speak.

22. Two different situations were under discussion according to whether the co-operation and co-ordination machinery to be established with the specialized agencies related to reports received from Member States or to communications from individuals. In the first case, the situation was quite clear. The transmission of reports received from States did not seem to raise any problem since those reports were documents of general distribution; it was natural that the specialized agencies should be interested in aspects of those reports which fell within their field of competence and should make a useful contribution to the work of the Committee - which should have the widest range of information possible - by communicating their views to it.

23. As Sir Vincent Evans had stated, the case of communications from individuals was governed by article 5 of the Optional Protocol: the Committee could not consider complaints which were being examined by another international body. The Working Group had already encountered that problem, and it was important that it should be studied. One question, for example, was how the Committee could co-ordinate its work with that of the Inter-American Commission on Human Rights, which received many communications originating in that region. It would be useful to hear the suggestions of the representatives of the Secretariat and of the specialized agencies on that matter.

24. Mr. OPSAHL said that the Committee should try to reach a consensus on the interpretation of article 40, paragraph 3, of the Covenant. That article did not oblige the specialized agencies to co-operate with the Committee, since they were not parties to the Covenant. At most, it allowed for the possibility that the specialized agencies might take certain steps by agreement with the Committee. In that connexion, it was important not to exceed the Covenant's provisions: the specialized agencies could not replace the Committee in commenting on possible violations of human rights. On the other hand, it would be very useful if the Committee were to invite them to give their views on certain practical aspects of co-operation which were unlikely to give rise to difficulties.

25. The remarks made by Sir Vincent Evans and Mr. Prado Vallejo concerning private communications related to specific cases and the establishment of an adequate system for the exchange of information should be enough to satisfy the provisions of article 5, paragraph 2 (a), of the Optional Protocol.

26. Sir Vincent EVANS pointed out that the Working Group was to consider, in a private meeting, the difficulties involved in implementing article 5, paragraph 2 (a), of the Protocol and to adopt a decision on the subject. Care should therefore be taken not to prejudge the issue.

27. The CHAIRMAN said that, while agreeing that it would be useful to co-operate with the specialized agencies in the appropriate areas, he shared the view of other speakers that caution was needed, inasmuch as the articles of the Covenant and the Committee's provisional rules of procedure did not settle all the problems involved. The Committee should study the matter in greater depth with a view to establishing a procedure to be followed and, for the time being, abide by the legal foundations provided by the Covenant and the provisional rules of procedure. Like Mr. Hanga, he thought that the Committee would, perhaps, be placing too liberal a construction on the provisions of article 40 if it asked the specialized agencies to comment on the reports. Some other provisions of the provisional rules of procedure might, however, give indications that could help to establish a basis for co-operation between the Committee and the specialized agencies. Rule 64, for instance, provided that all official documents of the Committee and its subsidiary bodies were documents of general distribution; there was therefore no reason why reports submitted by States should not be transmitted to the specialized agencies. The same considerations applied to the summary records of the Committee's public meetings, under rules 35 and 36. Lastly, although ILO and UNESCO had not been officially invited to participate in the Committee's meetings, it had been decided at the second session that they should be officially notified of the dates of the Committee's future sessions. It would, no doubt, be useful if the Secretariat could supply more details of the possible forms of co-operation and if the specialized agencies could give their views on the subject, but the Committee would have to take a pragmatic decision in each specific case.

28. Since there seemed to be a consensus in favour of hearing the representatives of the specialized agencies, he invited the representatives of ILO and UNESCO to speak in turn.

29. Mr. SEGOVIA (International Labour Organisation) said that, in a letter dated 29 November 1976 addressed to the Secretary-General, the Director-General of ILO had stated that his organisation was ready to consider any arrangement that the Committee might make to associate ILO with its work. ILO wanted to furnish the fullest possible information on those of its activities which were of interest to the Committee, but a certain amount of time would be needed for that purpose and, at the present meeting, he would have to confine his remarks to some preliminary information on the procedures used by ILO to implement the international labour standards laid down by the International Labour Conference.

30. Those procedures fell into two categories: procedures connected with the consideration of the periodic reports submitted by member States in accordance with the provisions of international labour conventions, and those which concerned representations or complaints relating to the implementation of the conventions, particularly the Convention concerning Freedom of Association and Protection of the Right to Organize, the Convention concerning Forced or Compulsory Labour and the Convention concerning Discrimination in respect of Employment and Occupation. Examination of the periodic reports was entrusted to a commission made up of

independent experts, appointed for their individual competence. The commission prepared a report which was submitted annually to the International Labour Conference and considered with the participation of representatives of workers and employers. Problems connected with the implementation of the conventions ratified by the State in question were thus examined in a tripartite framework.

31. The procedure set forth in article 24 of the Constitution of ILO enabled non-governmental organizations to submit representations against a State which had ratified an international labour convention. Article 26 also authorized a member State to file a complaint against another member State which had ratified an ILO convention. In connexion with the freedom of association, ILO had, in view of the importance of the question, introduced a procedure centred on a Fact-Finding and Conciliation Commission. Before referring a complaint to that Commission, the Governing Body transmitted it for preliminary consideration to a Committee on Freedom of Association made up of representatives of Governments, employers and workers. The recommendations subsequently formulated by the Commission were considered by the Governing Body and, where appropriate, transmitted to the Government concerned.

32. All the necessary documentation was available to the Committee and he was ready to provide, at a later stage, any details which might be requested.

33. Mr. VASAK (United Nations Educational, Scientific and Cultural Organization) said that his organization was following with much interest the progress made in implementing the Covenant on Civil and Political Rights, which it considered to be an important instrument for the promotion of human rights throughout the world. There could be no doubt that these rights fell within the field of competence of the specialized agencies and, for its part UNESCO was completely at the Committee's disposal to help it carry out its task.

34. As stated in the telegram sent by UNESCO on 29 March 1977 to the Chairman of the Committee on Human Rights, the provisions of the Covenant of particular interest to UNESCO were article 18 on freedom of thought, conscience and religion, article 19 on freedom of opinion and expression and article 27 on the right of minorities to their own cultural life. In a broader context, however, the interests of the Committee and UNESCO converged in many other fields such as, for instance, education or the communication media. That was tantamount to saying that UNESCO and the Committee were undoubtedly required to co-operate, in the fairly wide meaning of the term. UNESCO hoped, however, that the rights set forth in the Covenant would not be interpreted in different ways.

35. UNESCO could supply the Committee with useful information of various kinds. There were, first of all, the studies and the research that the organization had carried out in fields involving human rights. It should be stressed that the studies in question were not conceived from a purely legal standpoint but formed part of a multidisciplinary approach which could help the Committee to interpret the provisions of the Covenant. The studies on racial discrimination and ethnicity, for example, placed particular emphasis on the social aspect.

36. Next came the normative instruments which had been elaborated in connexion with human rights, such as the Convention and Recommendation against Discrimination in Education. In that connexion, he wished to point out that UNESCO recommendations - such as the Recommendation concerning the Status of Teachers, the Recommendation on the Status of Scientific Researchers and the Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms - were normative instruments, because member States were invited to submit reports on their implementation. Education had a particularly important part to play in the implementation of the Covenant and mention should undoubtedly be made of the fact that, in view of its special concern in the matter, UNESCO had set up a Committee on Conventions and Recommendations in Education, as an organ of the Executive Board. The reports of States on the implementation of the various instruments were available to the Committee.

37. The members of the Committee would undoubtedly wish to know, in connexion with the implementation of article 5, paragraph 2 (a), of the Optional Protocol, what procedures were currently being used by UNESCO in examining communications from individuals. In the past, UNESCO had applied a very rudimentary procedure, which was closely based on Economic and Social Council resolution 728 F. Recently, however, the Executive Board had set up a working group which had just agreed on a draft decision concerning the new procedures to be followed in examining communications relating to cases and questions of alleged violations of human rights. That draft decision would be considered by the Executive Board in April 1978.

38. He welcomed the fact that the Committee was empowered, under article 40, paragraph 3 of the Covenant, to transmit to the specialized agencies concerned copies of such parts of the reports of States as might fall within their field of competence. In accordance with rule 67, paragraph 2, of its provisional rules of procedure, the Committee was also entitled to invite the agencies to submit comments on those parts of the reports. UNESCO was, once again, fully at the Committee's disposal, but the organ responsible for maintaining contact with the Committee would be designated only when UNESCO received an official invitation to co-operate with the Committee.

39. Similar co-operation already existed between UNESCO and ILO, since two of the conventions prepared by ILO contained provisions relating to education and were thus of direct interest to UNESCO. The reports of the States parties to those instruments were transmitted by ILO to UNESCO, which then submitted its comments. Although rather informal in nature, that co-operation appeared to be fruitful.

40. Some members of the Committee had recalled that communications from individuals were examined in private meetings. Since the working group of the UNESCO Executive Board had proposed a similar procedure, there was a risk that the same communications might be examined by several organizations. It would be necessary, therefore, to arrange for consultation in order to avoid overlapping as much as possible, while safeguarding the confidential nature of the procedure for examining communications.

41. Lastly, he wished to state that UNESCO was very pleased with its co-operation with the Committee on the Elimination of Racial Discrimination (CERD). That co-operation was very extensive, particularly with regard to the implementation of

article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination, which covered the measures that the States parties to that instrument undertook to adopt in the fields of education, teaching and information with a view to combating racism and racial discrimination. The Committee for the Elimination of Racial Discrimination had currently before it a voluminous UNESCO report on the subject.

42. In reply to a question put by Mr. TOMUSCHAT, Mr. VASAK (United Nations Educational, Scientific and Cultural Organization) said that, so far, UNESCO had never commented on the reports submitted by States parties to the International Convention on the Elimination of All Forms of Racial Discrimination. It participated regularly in the work of CERD but its comments related to the Committee's work in general and not to the report of any particular State.

43. The CHAIRMAN thanked the representatives of ILO and UNESCO for their information. Their statements revealed that many questions dealt with by the Committee were of interest to the two agencies.

44. It might, perhaps, be advisable to establish a small working group consisting of, say, three members of the Committee, to prepare a working paper which might help the Committee to decide what form co-operation with the specialized agencies should take. Such a task was more suitable for a working group than for the Secretariat and the Committee had used a similar method when preparing the general guidelines for submission of reports by States.

45. Sir Vincent EVANS suggested that the representatives of ILO and UNESCO should be invited to draft a short document for the Committee containing their comments, in the light of the current discussion.

46. Mr. MOVCHAN said that he supported the Chairman's suggestion. Members of the Committee should have some time for reflection to digest the information they had just received and to make informal contacts. There should be no objection to the establishment of the proposed working group, since there was a precedent. In any event, the matter would have to be decided at the current session.

47. Mr. GANJI said that he, too, was in favour of establishing a small working group. Nevertheless, he wished to point out that, although ILO and UNESCO were the agencies most directly interested in the Committee's work, they were not the only agencies whose work was related to the rights recognized in the Covenant.

48. Mr. MAZAUD (Assistant Director, Division of Human Rights) said that, at the time when the two International Covenants on human rights were on the point of entering into force, inter-agency meetings had been held to examine the question of co-operation in the implementation of those instruments. Several specialized agencies, including some that had participated in the preparation of certain provisions of the Conventions, had taken part in those meetings. It had become apparent that the implementation of the Covenant on Civil and Political Rights was a matter of great interest to some agencies other than ILO and UNESCO. The World Health Organization, for instance, was interested in the right to life and the prohibition of torture and maltreatment, while the United Nations Food and Agriculture Organization was interested in the right of the family to protection by society. Furthermore, many of the rights recognized in the Covenant were also applicable to refugees and were thus of interest to the United Nations High Commissioner for Refugees.

49. Not all the specialized agencies which had participated in those meetings had taken the same approach to co-operation with the Committee. ILO and UNESCO had been the only ones which had already possessed procedures for the implementation of international instruments, and the possible ways in which other agencies could co-operate were less well defined. In respect of the exchange of information, one international agency had even stated that, despite its good will, it would be able to provide only limited co-operation because of the financial implications involved. It had also been pointed out that, under article 46 of the Covenant, no provision of that instrument should be interpreted "as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant". There was a need for co-operation, at both the procedural and normative levels, to prevent conflicts of competence and incompatibilities in international standards.

50. Mr. LALLAH took the view that, before the working group proposed by the Chairman was created, the Secretariat should prepare a document listing the "specialized agencies concerned", as referred to in article 40 of the Covenant, and provisions of the Covenant which were of more particular interest to each of them.

51. Mr. MAZAUD (Assistant Director, Division of Human Rights) said that such a document could not be prepared for the current session, since the Secretariat would first have to consult the specialized agencies.

52. The CHAIRMAN noted that, on the whole, the Committee considered that a document prepared by a small working group - the members of which could be appointed by the Bureau - would undoubtedly assist it to continue the discussion. The question of co-operation with ILO and UNESCO in particular could, at that stage, be settled pragmatically. In that connexion, the suggestion by Sir Vincent Evans that the representatives of ILO and UNESCO should be asked to submit some written comments to the Committee should be borne in mind.

The meeting rose at 1 p.m.