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GENERAL

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COMMISSION ON HUMAN RIGHTS
Seventh session
Item 4 of the provisional agenda

THE RIGHT OF PEOPLES AND NATIONS TO SELF-DETERMINATION

Note by the Secretary-General

1. This item has been placed on the provisional agenda of the Commission on Human Rights in pursuance of resolution 421 D (V) adopted by the General Assembly on 4 December 1950 and resolution E/1927 adopted by the Economic and Social Council on 23 February 1951.
2. Section D of the resolution of the General Assembly called upon the Economic and Social Council to request the Commission on Human Rights to study ways and means which would ensure the right of peoples and nations to self-determination, and to prepare recommendations for consideration by the General Assembly at its sixth session. The resolution of the Council transmitted the resolution of the General Assembly to the Commission for appropriate action.
3. The question of the right of self-determination was first raised in the Third Committee of the General Assembly at its fifth session by the representative of the Union of Soviet Socialist Republics. In a draft resolution (A/C.3/L.77/Rev.1) the representative of the Union of Soviet Socialist Republics proposed the inclusion in the draft Covenant on Human Rights of a provision dealing with the right of self-determination of peoples and nations.
4. The Third Committee decided to take the draft resolution submitted by the representatives of Brazil, Turkey and the United States of America (A/C.3/L.76) as the basic working paper, and the proposal of the Union of Soviet Socialist Republics was submitted in the form of an amendment to this draft resolution (A/C.3/L.96). To this joint draft resolution another amendment was proposed by the representatives of Afghanistan and Saudi Arabia (A/C.3/L.88), which called upon the Economic and Social Council to request the Commission on Human Rights

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to study ways and means which would ensure the right of peoples and nations to self-determination and to prepare recommendations for consideration by the General Assembly at its sixth session.

5. At the 305th meeting of the Third Committee, the Union of Soviet Socialist Republics' amendments were discussed, but were not adopted by the Committee. However, the proposals made by the representative of the Union of Soviet Socialist Republics have been referred to the Commission for its consideration in section B of resolution 421 (V) of the General Assembly. The relevant proposal of the Union of Soviet Socialist Republics was as follows (A/C.3/L.92):

"Every people and every nation shall have the right to national self-determination. States which have responsibilities for the administration of Non-Self-Governing Territories shall promote the fulfilment of this right, guided by the aims and principles of the United Nations in relation to the peoples of such territories. The State shall ensure to national minorities the right to use their native tongue and to possess their national schools, libraries, museums and other cultural and educational institutions."

6. At the 309th meeting of the Third Committee the representatives of Afghanistan and Saudi Arabia presented a revised amendment (A/C.3/L.88/Rev.1) which omitted from their original amendment the reference to the right of peoples to self-determination. After discussion of this text at the 309th and 310th meetings of the Committee the proposers of the amendment, at the suggestion of the representative of Mexico, reintroduced the original text of their amendment. The amendment was adopted at the 311th meeting of the Committee, and was adopted by the General Assembly as section D of its resolution 421 (V) at the 317th plenary meeting.

7. During the discussion in the Third Committee, representatives opposing the adoption of the proposal of Afghanistan and Saudi Arabia argued that the programme of the Commission on Human Rights was already lengthy, and that the right of self-determination of peoples and nations did not fall within the competence of the Commission as it was adequately covered in Articles 73b and 76b of the United Nations Charter. They stated that, even though the Commission on Human Rights was competent to deal with all human rights both individual and collective, a distinction must be drawn between individual human rights,

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collective human rights belonging to groups of individuals, such as the right of association or trade union rights, and the rights of nations, peoples or sovereign groups. The latter were rights of a different nature as they were political rights which could only be exercised collectively and should be kept outside the field of work of the Commission on Human Rights. It was contended that the appropriate organs of the United Nations for the implementation of the principle of self-determination sanctioned by the Charter were the Security Council, the Trusteeship Council and the First and Fourth Committees of the General Assembly and, not the Third Committee or the Commission on Human Rights (A/C.3/SR.309, 310 and 311).

8. Representatives who supported the proposal considered, on the contrary, that a clause on the right to self-determination was necessary both in the resolution to be adopted by the General Assembly and in the draft Covenant, because the right was a basic one which had been violated on numerous occasions in the past and was still being violated. Man was part of society and could not be **disassociated** from it; the right to self-determination was a right of a group of individuals in association. It was stated that if the Covenant on Human Rights failed to contain an article on the right to self-determination it would be woefully incomplete. The right of peoples to self-determination was one of the principles of the Charter of the United Nations. It was enunciated in Article 1 of the Charter, and was within the spirit of Article 73b. Article 55 of the Charter, the pivotal point of the whole system of international economic and social co-operation, specifically mentioned the principle of self-determination of peoples. In Article 21, paragraph 3 of the Universal Declaration of Human Rights it had been recognized that the will of the people should be the basis of the authority of government, and numerous other articles of the Declaration, such as Articles 1, 2, 3, 4, 12, 15, 18, 27 and 30 had a direct bearing on the right of peoples to self-determination. It was contended that the absence of such an article in the draft Covenant would encourage powers responsible for non-self-governing territories to postpone indefinitely the establishment of equal rights among nations. The right of self-determination was the essential prerequisite of all other human rights, and the Commission on Human Rights was fully competent to deal with it (A/C.3/SR.309, 310 and 311).

9. It will be recalled (see paragraph 6 above) that the reference to the right of peoples to self-determination was reintroduced at the suggestion of the representative of Mexico. The Mexican representative thought that the right of nations to self-determination would fall within the competence of the International Law Commission which was drafting a Declaration on the Rights and Duties of States, but that the right of peoples to self-determination should be protected by the Covenant on Human Rights (A/C.3/SR.310).
