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Chairman: Mr. Omar LOUTFI (Egypt).

AGENDA ITEM 28

Draft International Covenants on Human Rights (E/2573, annexes I, II and III, A/2907 and Add. I and 2, A/2910 and Add. I to 5, A/2929, A/2943, chapter VI, section I, A/C.3/L.460 and Corr.1, A/C.3/L.466, A/C.3/L.472, A/C.3/L.475, A/C.3/L.476, A/C.3/L.477, A/C.3/L.479, A/C.3/L.480) (continued)

PROCEDURAL PROPOSALS CONCERNING ARTICLE 1

1. Mr. LANNUNG (Denmark) said that at the preceding meeting the Afghan representative had misinterpreted — although unintentionally, he was sure — the Danish delegation's attitude towards self-determination, by basing his remarks partly on a provisional summary record which had since been corrected.

2. Denmark had for generations recognized and respected the right of self-determination, and would continue to do so whether or not an article on the subject was included in the covenants. After a careful study of the situation, the Danish Government had come to the conclusion that it would be unrealistic to include the article in those particular instruments, as that would prevent many Governments from ratifying them, and that therefore a well-formulated provision concerning the right of self-determination, accompanied by measures for implementation, should be placed in a third document, which might be either a protocol or a separate covenant. Convinced that Governments would need time to consider the matter, his delegation had submitted a procedural draft resolution (A/C.3/L.479).

3. Mr. PAZHWAK (Afghanistan) said that he could not have misinterpreted the Danish representative's statement because he had made no attempt to interpret it, but had quoted it as reported in the summary record, which incidentally was in entire agreement with his own notes. He would be only too delighted to learn that the attitude of the Danish delegation was not what he had understood it to be; but as that delegation clearly did not want the article on self-determination to be included in the draft covenants, it could hardly claim that its proposal (A/C.3/L.479) for postponement of the entire issue represented a compromise.

4. Mr. FERNANDEZ ESCALANTE (Argentina) said that, in the interest of obtaining a text of article 1 which, without any sacrifice of principle, would be

acceptable to the largest possible number of countries, he would support the procedural draft resolution submitted by Ecuador (A/C.3/L.477). The proposed working party should, in his view, seek to clarify the text of article 1 with a view to eliminating misunderstandings and allaying the fears expressed by some delegations, in particular in relation to paragraph 3. In that connexion, he recalled that his delegation had suggested (643rd meeting) the insertion of a new sentence in paragraph 3; he hoped that the working party, if constituted, would take the suggestion into account.

5. It was his understanding that the working party would not alter the substance of article 1 and that a right recognized as fundamental by the majority of nations would not be curtailed. His Government held that the right of peoples to self-determination and to sovereignty over their natural wealth was inalienable and a prerequisite of the welfare and progress of nations, and would therefore support the broadest possible recognition of it.

6. Mr. BAROODY (Saudi Arabia) regretted that the United Kingdom delegation did not feel able to participate in the working party proposed by Ecuador. Such an attitude raised two questions: whether the working party would be useful in the circumstances and whether it would be able to expedite the work of the Committee if the representatives of administering Powers refused to participate in it.

7. He himself felt that it would be only relatively useful without the participation of the delegations which were opposed to article 1. The fact that their remarks had been taken into account showed that there was a desire for understanding and conciliation on the part of those who did not share their views. A similar spirit had been shown when his own and other delegations had agreed to insert the word "nations" in the first paragraph of article 1, but there had since been objections to that insertion on the grounds that it merely confused ideas on the subject. It was to be feared that the real obstacle to agreement was not any imperfection in the article itself, but a determination on the part of certain delegations not to accept it in any form. As there was little chance that arguments would be listened to in an impartial spirit at that time, he felt that consideration of article 1 had reached a virtual impasse.

8. With regard to the draft resolutions, he would support the Ecuadorian proposal (A/C.3/L.477) and the Afghan amendments to it (A/C.3/L.478). The period during which the working party proposed by Ecuador was to achieve results was, however, rather too vaguely described. He therefore proposed that the words "as soon as possible" in the Ecuadorian draft resolution should be replaced by the words "not later than November 19".

9. He could have supported the Danish draft resolution (A/C.3/L.479) if he had not feared that it would set a precedent for postponing the discussion on self-determination under item 29 of the agenda of the General Assembly also. The Danish representative had been serving on another Committee during the earlier stages of the discussion on the draft covenants and had made his proposal in all good faith. He could not know that delaying tactics had been used time and again, possibly without intent but certainly with the effect of hampering the discussion of the draft covenants. He himself did not wish to suggest that there was any deep-laid scheme to shelve the draft covenants on human rights, but he felt obliged to point out that their history bore a striking resemblance to that of the draft Convention on Freedom of Information, which had been stillborn. He agreed with the Afghan representative that there should be no postponement; the Third Committee should state unequivocally that the article on self-determination must be included in the draft covenants.

10. The United Kingdom representative's position was very understandable, as his country had dependent territories, but that could not excuse any shilly-shallying with the right of self-determination on the part of the Committee. It had already spent five years on the draft covenants and a further postponement would achieve nothing. The United Kingdom representative had talked of a paper victory in connexion with the insertion of article 1, but negotiation was preferable to bloodshed. Article 1 might be political dynamite, as the United Kingdom representative had said, but it would be less harmful in the draft covenants than elsewhere. His people and many others were clamouring for action by the United Nations on the question of self-determination; in the twentieth century no one could seriously claim that the colonial Powers had any civilizing mission. He could therefore not support the Danish draft resolution (A/C.3/L.479), nor agree with the views expressed by the Dominican representative (651st meeting).

11. The Committee must decide how to dispose of article 1. Apart from the three proposals he had already mentioned, other proposals had been made. A separate covenant on self-determination had been proposed, but that was unacceptable for the reasons which the Egyptian representative had so ably explained (651st meeting). The protocol proposed by Brazil¹ was unacceptable for similar reasons. The crux of the situation was that the draft covenants would have no real force unless they were signed by countries which had dependent territories. A way must be found to cut that Gordian knot. He proposed that the Ecuadorian and Afghan proposals should be voted on first. If they were adopted, the Danish draft resolution would have only an academic interest and its sponsor might be willing to withdraw it; if it was put to the vote and adopted, he himself would submit a draft resolution to the effect that the draft covenants should not be considered ready for signature until the text of article 1 had been put in final form.

12. Mr. FERNANDEZ ESCALANTE (Argentina) supported the oral amendment submitted by Saudi Arabia.

13. Mr. URQUIA (El Salvador) observed that some delegations unfortunately persisted in opposing the inclusion of any provision on self-determination in the draft covenants, although no valid arguments had been advanced to refute the premise that self-determination, as a human right exercised by the individuals comprising a collectivity, should be set forth in an article of the covenants. The Committee had before it three amendments (A/C.3/L.475, A/C.3/L.476 and A/C.3/L.480) to article 1 and two procedural draft resolutions, submitted by the delegations of Denmark (A/C.3/L.479) and Ecuador (A/C.3/L.477). It might be advisable to ask the sponsors of the amendments not to insist on an immediate vote on their texts and to proceed to a vote on the procedural proposals, since the diversity of the amendments seemed to make the adoption of the Ecuadorian proposal particularly desirable.

14. His delegation could not support the Danish draft resolution because that proposal in effect called upon the Secretariat to undertake work which it had already done. The Ecuadorian proposal, however, seemed to be wise. The Egyptian representative had suggested that the countries represented on the proposed working party should include members of the Commission on Human Rights, but the United Kingdom representative had indicated (652nd meeting) that his delegation could not serve on the working party, in view of his Government's position on the question. While it would be desirable for the working party to be composed of advocates of all the points of view expressed, representatives who were wedded to the opinion that the article should be deleted could make no useful contribution. However, good results might be obtained through the collaboration of delegations which agreed in principle to regard self-determination as a human right and which had not been intransigent in their acceptance of formal criticisms of article 1 of the draft covenants. That willingness to co-operate had shown that there could be no question of voting in blocs. It should be borne in mind that, when the representative of a Latin American country stated his delegation's position, he was not speaking for the whole continent. The advocates of the inclusion of article 1 in the covenants were agreed on that point only, but held widely differing views on the form of the article.

15. The Salvadorian delegation would support the Ecuadorian draft resolution (A/C.3/L.477) and the Afghan amendments (A/C.3/L.478) to it. It would suggest, however, that the working party should include the sponsors of all the amendments. It might be advisable to delete from the Ecuadorian text the words "advocates of the various points of view expressed in the discussion" and to ask the Chairman to appoint about nine members, including the sponsors of the amendments.

16. Miss MAÑAS (Cuba) said that her delegation was in favour of the Ecuadorian draft resolution, but thought it might be improved by replacing the words "to revise the text of" by "to consider" and inserting the phrase "in the light of the comments and suggestions made" after the words "human rights".

17. Mr. URQUIA (El Salvador) agreed with the Cuban representative and suggested that the word "amendments" should be inserted before "comments" in her amendment.

¹ Official Records of the General Assembly, Ninth Session, Annexes, agenda item 58, document A/C.3/L.412 (incorporated in A/2808 and Corr.1, para. 41).

18. Mr. PERALTA (Ecuador) accepted the Cuban and Salvadorian amendments².

19. Mr. NUÑEZ (Costa Rica) endorsed the Salvadorian representative's statement that no Latin American delegation could speak for other countries in the region. He would not insist that a vote should be taken on his amendments (A/C.3/L.480) before the fate of the Ecuadorian draft resolution (A/C.3/L.477), was decided; his delegation approved of that draft resolution and of the Afghan amendments (A/C.3/L.478) to it. The Cuban and Salvadorian amendments were quite clear and it seemed to be unnecessary for them to be submitted in writing. He could not support the Danish draft resolution (A/C.3/L.479) because it was clearly an attempt to put off a decision on the inclusion of an article on self-determination in the covenants.

20. Mr. WALL (Canada) said that, although his delegation was and would continue to be sympathetic to the principle of self-determination in word and deed, it considered that it was premature to formulate self-determination as a legal right, especially in the context of the draft covenants; the principle might be set forth in some other international instrument, such as a separate covenant or a protocol. Although there was a wide measure of agreement on the importance of the principle, there were many different opinions concerning its practical application. His delegation believed that it would be possible to reach a unanimous decision if more time were given to the detailed study of the question; it would therefore support the Danish draft resolution (A/C.3/L.479), but wished to stress that it favoured postponement, not as a means of shelving the problem indefinitely, but as a means of reaching agreement on the universal application of the principle. On the other hand, the Canadian delegation could not support the Ecuadorian draft resolution (A/C.3/L.477) in its existing form because it was based on the assumption that the inclusion of an article in the covenants was the only way of securing the implementation of self-determination. The amended text of

that draft resolution required more careful study and he would like more time to consider it.

21. Mr. BAKHTIAR (Pakistan) introduced an amendment to article 1 of the draft covenants which his delegation would submit jointly with the Lebanese delegation.³ The text adhered closely to the spirit of the United Nations Charter and stressed the fact that the effective implementation of self-determination depended on shared responsibility.

22. Mr. NUÑEZ (Costa Rica) remarked that the Ecuadorian draft resolution as amended was very clear, and could be put to the vote forthwith.

23. Mr. RODRIGUEZ FABREGAT (Uruguay) and Mrs. CISELET (Belgium) said that they would prefer to see the revised text of the draft resolution in writing, in order to be able to vote intelligently.

24. The CHAIRMAN stated that the vote would be postponed until the revised text of the draft resolution had been circulated.

25. Mr. PAZHWAQ (Afghanistan) observed that there would be little point in setting up a working party and waiting until 19 November — the time limit proposed by the representative of Saudi Arabia — for a new text of article 1, if, after that, the Committee were to discover that the article would not be included in the draft covenants owing to the adoption of the United Kingdom amendment (A/2910/Add.1) calling for the deletion of the article. He therefore thought that, before voting on the Ecuadorian proposal (A/C.3/L.477), the Committee should settle the question of deletion.

26. He also wished to know whether, if the working party should succeed in producing a new draft of article 1, the United Kingdom representative would maintain his proposal for its deletion.

27. Mr. HOARE (United Kingdom) replied that the questions raised by the Afghan representative seemed more for the Chairman than for him, and he would reserve any comment until he had seen the revised text of the Ecuadorian proposal.

The meeting rose at 5.15 p.m.

² The Cuban and Salvadorian amendments were subsequently incorporated in the revised text of the Ecuadorian draft resolution (A/C.3/L.477/Rev.1).

³ The amendment was subsequently issued as document A/C.3/L.481.