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Chairman: Mr. Hermod LANNUNG (Denmark).

**AGENDA ITEM 31**

**Draft International Covenants on Human Rights (E/2573, annexes I, II and III, A/2907 and Add.1 and 2, A/2910 and Add.1 to 6, A/2929, A/3077, A/C.3/L.460, A/3149, A/C.3/L.528, A/C.3/L.532, A/C.3/L.547, A/C.3/L.550, A/C.3/L.552/Rev.2, A/C.3/L.553 to 557) (*continued*)**

**ARTICLE 8 OF THE DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (E/2573, annex I A) (*continued*)**

1. Mr. PONCE (Ecuador), continuing his remarks from the preceding meeting, said that while the right to strike should certainly be enunciated in the draft Covenant, and while he agreed with the form in which it was set forth in paragraph (d) of the text proposed in the three-Power amendments (A/C.3/L.552/Rev.2), he would prefer to see it embodied in a separate article. Being a right which pertained exclusively to workers, it was somewhat out of place in an article which dealt with trade unions of both workers and employers; moreover, it should be enough for States to recognize the right, rather than undertake to ensure it, as they would be doing by subscribing to the three-Power text.

2. The Philippine representative had suggested that the right of picketing also should be mentioned expressly; there was some merit in the suggestion, but as no formal amendment had been submitted to that effect, it could not be carried out. Furthermore, the right of picketing was not as widely recognized as the right to strike, so that it was perhaps wiser not to mention it specifically in the draft Covenant.

3. There had been considerable discussion of the meaning of the term "trade union", a point which involved the scope of article 8 as a whole. Since the Third Committee had decided at its previous meeting not to extend the time limit for the submission of amendments, it would have to vote on the texts already before it; and those texts meant different things in the different official languages. In those circumstances, his delegation, like those of Chile, France and a number of other countries, would interpret the Spanish equivalent of "trade union"—"*sindicato*"—as covering organizations of employers as well as those of workers. That interpretation would be in accordance with the meaning given to the term "*sindicato*" in Ecuador and with the

usual practice in that country. Each Government should interpret the meaning of the term for itself; but he hoped that the broader interpretation would be generally favoured, since it would not be fair to limit the protection extended by article 8 to workers and deny it to self-employed persons, artists, or employers who also exercised a trade.

4. Mr. STABEL (Norway) said that his delegation, in common with a number of others, would have preferred the original draft of article 8 (E/2573, annex I A). The various amendments added little of value; indeed, some of them tended to upset the carefully established balance of the article. After some hesitation, his delegation had nevertheless decided to vote for paragraphs (a), (b) and (c) of the three-Power text (A/C.3/L.552/Rev.2) as amended by the Netherlands and the United Kingdom (A/C.3/L.555), for the Canadian sub-amendment (A/C.3/L.554), and for the paragraph dealing with the International Labour Convention of 1948 in point 4 of the sub-amendments submitted by the Netherlands and the United Kingdom (A/C.3/L.555). However, it would have to abstain on the paragraph in point 4 of those amendments dealing with the armed forces, the police and the administration of the State, and on paragraph (d) of the three-Power text (A/C.3/L.552/Rev.2), which on the one hand was redundant—since the right to strike was an integral element in trade-union rights—and on the other hand limited the right to strike unduly by making its exercise wholly dependent on national legislation.

5. He would vote for the various texts on the understanding that the term "trade union" applied to workers' organizations only.

6. Mr. ODEVALL (Sweden) remarked that a number of delegations had said that they preferred the original text of article 8 and would be able to support some of the amendments to it only as a second choice. That was the position in which he found himself. Unfortunately, under the rules of procedure of the General Assembly, the Committee would have no opportunity to vote on the original text unless the three-Power text (A/C.3/L.552/Rev.2) was rejected. While he was reluctant to vote against a text whose terms were satisfactory, he would be compelled to vote against whatever part of the text in the amendments was put to the vote first, since he preferred article 8 as it stood and believed that the text in the amendments was only a second-best solution.

7. Mr. DIAZ CASANUEVA (Chile) observed that because of the different meanings of the various equivalents of the term "trade union" in the official languages, the Committee was faced with a serious problem. Various delegations had said that each State should interpret the term for itself. But that was unthinkable, for to adopt a text which meant different things to different countries would mean to impose varying obligations on those countries and to grant protection to their peoples in unequal measure. That would be contrary to the very

spirit of the Covenants, which should be applicable everywhere in exactly the same way.

8. Admittedly, the Commission on Human Rights had intended article 8 to apply to workers only; but the Third Committee was entirely at liberty to extend its scope to employers as well. It was felt in most Latin American countries that organizations of employers should be promoted, both in order to facilitate co-operation between employers and workers and in order to induce the former to shoulder the social and economic responsibilities which were the counterpart of the rights they enjoyed. That was essential if the countries concerned were to raise their productivity and in that way ensure their economic development. International Labour Convention No. 87 (Convention concerning Freedom of Association and Protection of the Right to Organize, 1948) and International Labour Convention No. 98 (Convention concerning the Application of the Principles of the Right to Organize and to Bargain Collectively, 1949) applied to organizations of workers and employers alike, and so should article 8 of the draft Covenant.

9. While he was strongly in favour of a broad interpretation of the term "trade union", it was even more important that the article should be open to one interpretation alone; a legal text must be entirely unambiguous. He therefore formally proposed that the Committee should vote on the question whether the term "trade union", and the text of article 8 as a whole, applied only to workers' organizations, or to employers' organizations as well.

10. Miss BERNARDINO (Dominican Republic) said that although the original draft of article 8 formulated by the Commission on Human Rights was a praiseworthy achievement and should be recognized as such, the amendments that had been submitted were valuable and would improve the text. Her delegation would have voted for the original article, but it had no objection to the three-Power text (A/C.3/L.552) Rev.2), which was fully consistent with the Dominican Labour Code. It would be particularly glad to vote in favour of paragraph (d); a guarantee of the right to strike was essential to the protection of the workers' interests.

11. Under the Dominican Labour Code, the word "*sindicato*" covered associations of workers and of employers alike. Accordingly, her delegation attached that sense to the term in the original article and the amendments; the exercise of the right to form associations should not be restricted, and a fair balance must be struck between the interests of workers and of employers. She supported the Chilean representative's proposal that the Committee should take a decision on the scope of article 8.

12. The CHAIRMAN said that the Chilean proposal could hardly be entertained at the current stage; the motion to extend the time limit for the submission of amendments had been rejected at the previous meeting.

13. Mr. DIAZ CASANUEVA (Chile), supported by Miss BERNARDINO (Dominican Republic), said that his proposal had no bearing on the submission of further amendments; it was merely that a vote should be taken on the question whether or not article 8 applied to employers' as well as workers' organizations.

14. Mr. MOROZOV (Union of Soviet Socialist Republics) pointed out that delegations which were dis-

satisfied with article 8 would be able to submit amendments at a later stage in the consideration of the draft Covenants. In any event, the Chilean proposal was beside the point, since the Third Committee was concerned not with the views of the Commission on Human Rights, but with the texts before it. Even if the Chilean proposal was adopted, those texts would not be changed, and the meanings which the various delegations attached to the term "trade union" would remain the same. The delegations which wished to extend the scope of the article to cover employers' organizations need have no misgivings on the subject, as the adoption of the article on the understanding that it covered workers' organizations only did not prevent any Government that wished to do so from extending protection to employers' organizations also. The purpose of relating trade-union rights to workers' organizations alone was not to establish any form of discrimination, but to avoid confusing two different ideas; for the right of association, which included the right of employers and other categories of persons to form organizations, was set forth in the draft Covenant on Civil and Political Rights. For the sake of clarity, he appealed to the Chilean representative not to press his proposal.

15. Mr. TSAI (China) said that the Chinese expression corresponding to "trade union" applied to workers' organizations only; his delegation would therefore vote on that understanding. However, in view of the large number of delegations which might be prevented from voting for the draft Covenant because of the point raised by the Chilean representative, he felt that it might be wiser to allow more time for an exchange of views on the subject.

16. Mr. MUFTI (Syria) moved the closure of the debate.

17. The CHAIRMAN said that under rule 118 of the rules of procedure of the General Assembly, he could allow two speakers to oppose the motion.

18. Mrs. SHOHAM-SHARON (Israel) said that although her delegation would vote on the understanding that article 8 related to workers' organizations only, it considered that the Committee was faced with a basic question of interpretation, which was likely to arise in connexion with other articles and could therefore not be settled by the adoption of procedural motions. She therefore opposed the closure of the debate and suggested that the Committee should decide that the whole question could best be dealt with at a later stage in connexion with reservations to the Covenants.

19. Miss BERNARDINO (Dominican Republic) said she emphatically opposed the closure of the debate. The point at issue was one of clarification, with a view to improving the text of an instrument which was of vital importance to all mankind. In drafting a text which was to be signed and ratified by Governments the greatest possible care should be taken.

*The Syrian motion for closure of the debate was adopted by 22 votes to 15, with 30 abstentions.*

20. The CHAIRMAN indicated the order in which the various amendments and sub-amendments might be put to the vote.

*The suggested order of voting was approved.*

*The Canadian amendment (A/C.3/L.554) was adopted by 25 votes to 9, with 35 abstentions.*

21. The CHAIRMAN pointed out that the Belgian representative had requested a separate vote on the

words "for the promotion and protection of his economic and social interests", in paragraph (a) of the text proposed in the revised three-Power amendments (A/C.3/L.552/Rev.2).

*Those words were adopted by 47 votes to 1, with 19 abstentions.*

*Paragraph (a) of the revised three-Power text (A/C.3/L.552/Rev.2) was adopted by 38 votes to 8, with 18 abstentions.*

22. Mr. PONCE (Ecuador) asked for a separate vote on the words "or the protection of the rights and freedoms of others", in point 1 of the amendments by the Netherlands and the United Kingdom (A/C.3/L.555).

*Those words were adopted by 32 votes to none, with 37 abstentions.*

*Point 1 of the amendments submitted by the Netherlands and the United Kingdom (A/C.3/L.555), as a whole, was adopted by 30 votes to 12, with 26 abstentions.*

*Paragraph (b) of the revised three-Power text (A/C.3/L.552/Rev.2) was adopted by 40 votes to 4, with 24 abstentions.*

23. Mr. AZKOUL (Lebanon) said that there was no need to vote on point 2 (a) of the amendments submitted by the Netherlands and the United Kingdom (A/C.3/L.555) since it applied only to the English text.

*It was so decided.*

*Point 2 (b) of the amendments submitted by the Netherlands and the United Kingdom (A/C.3/L.555) was adopted by 29 votes to 7, with 28 abstentions.*

*Point 2 (c) of the amendments submitted by the Netherlands and the United Kingdom (A/C.3/L.555) was adopted by 28 votes to 9, with 30 abstentions.*

24. Mr. MOROZOV (Union of Soviet Socialist Republics) asked for a separate vote on the words "the right of trade unions to function freely", in paragraph (c) of the revised three-Power text (A/C.3/L.552/Rev.2).

*Those words were adopted by 31 votes to 2, with 35 abstentions.*

*The remainder of paragraph (c) of the revised three-Power text (A/C.3/L.552/Rev.2) as amended, was adopted by 31 votes to 11, with 24 abstentions.*

*Paragraph (c) of the revised three-Power text (A/C.3/L.552/Rev.2) as a whole was adopted by 40 votes to 2, with 27 abstentions.*

*Paragraph (d) of the revised three-Power text (A/C.3/L.552/Rev.2) was adopted by 41 votes to 2, with 26 abstentions.*

25. The CHAIRMAN invited the Committee to vote on the first paragraph of the text proposed in point 3 of the amendments submitted by the Netherlands and the United Kingdom (A/C.3/L.555).

26. Mr. THIERRY (France) asked whether that paragraph applied to both the right to form trade unions and the right to strike.

27. Mr. EUSTATHIADES (Greece) thought that in the beginning it had not seemed that that paragraph had been meant to apply to the right to strike.

28. Mr. HOARE (United Kingdom) said that the paragraph in question applied to all the rights set forth in the three-Power text, including the right to strike. If it were applied only to paragraphs (a), (b) and (c), the effect of paragraph (d) which made the right to strike absolute (subject only to the terms of law), would be to make the right absolute also for the armed forces, which would be manifestly undesirable.

29. Mr. EUSTATHIADES (Greece) asked that a separate vote be taken first on the words "or of the administration of the State", in the first paragraph of the text proposed in point 3 of the amendments submitted by the Netherlands and the United Kingdom (A/C.3/L.555).

*Those words were adopted by 20 votes to 18, with 31 abstentions.*

*The first paragraph of the text proposed in point 3 of the amendments submitted by the Netherlands and the United Kingdom (A/C.3/L.555), as a whole, was adopted by 24 votes to 10, with 34 abstentions.*

*The second paragraph of the text proposed in point 3 of the amendments submitted by the Netherlands and the United Kingdom (A/C.3/L.555) was adopted by 19 votes to 14, with 35 abstentions.*

30. The CHAIRMAN invited the Committee to vote on article 8 of the draft Covenant on Economic, Social and Cultural Rights as a whole, as amended.

*At the request of the representative of the Union of Soviet Socialist Republics, a vote was taken by roll-call.*

*Belgium, having been drawn by lot by the Chairman, was called upon to vote first.*

*In favour:* Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Ceylon, Chile, Czechoslovakia, Denmark, Dominican Republic, Finland, France, India, Indonesia, Iran, Iraq, Israel, Italy, Lebanon, Luxembourg, Mexico, Morocco, Nepal, Netherlands, New Zealand, Norway, Pakistan, Peru, Poland, Romania, Sweden, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia, Albania.

*Abstaining:* Belgium, Canada, China, Columbia, Costa Rica, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Greece, Guatemala, Honduras, Ireland, Japan, Liberia, Philippines, Portugal, Saudi Arabia, Spain, Sudan, Thailand, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Yemen, Afghanistan, Argentina, Australia, Austria.

*Article 8 was adopted by 37 votes to none, with 32 abstentions.*

The meeting rose at 1.10 p.m.