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DRAFT INTERNATIONAL CONVENTION ON THE ELIMINATION
OF ALL FORMS OF RACIAL DISCRIMINATION

Ghana: revised amendments to the articles relating to measures of
implementation submitted by the Philippines (A/C.3/L.1221)

Replace the text of the articles by the following:

Article I

1. The States Parties to this Convention undertake to submit a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention: (a) within one year after the entry into force of the Convention for the State concerned; and (b) thereafter every two years and whenever the Committee constituted in accordance with paragraph 3 of the present article so requests.

2. All reports shall be submitted to the Secretary-General of the United Nations for consideration by the Committee constituted in accordance with paragraph 3 of the present article.

3. The Committee shall consist of eighteen members elected by and from amongst States Parties to this Convention, consideration being given to equitable geographical distribution of membership and to the representation of the different forms of civilization as well as of the principal legal systems.

4. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years: immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

5. A State Party elected to membership of the Committee in accordance with paragraph 3 of the present article, shall be responsible for the expenses of its representative on the Committee while in performance of Committee duties.

6. The Committee shall request further information from the States Parties if necessary, and make suggestions and general recommendations and report annually to the General Assembly on its activities. However, such suggestions and general recommendations shall only be reported to the General Assembly after prior consultation with the States Parties concerned.

7. The States Parties concerned may, in addition, submit to the General Assembly observations on suggestions or general recommendations made in accordance with paragraph 6 of the present article.

Article II

1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.

3. The secretariat of the Committee shall be provided by the Secretary-General of the United Nations.

4. The meetings of the Committee shall be held at the Headquarters of the United Nations.

Article III

1. If a State Party to this Convention considers that another State Party is not giving effect to a provision of the Convention, it may, by written communication, bring the matter to the attention of that State. Within three months after the receipt of the communication, the receiving State shall afford the other State an explanation or statement in writing concerning the matter, which should include, to the extent possible and pertinent, references to procedures and remedies taken, or pending, or available in the matter.

2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, constituted in accordance with paragraph 3 of article I, by notice given to the Committee and also to the other State.

Article IV

1. The Committee shall request the State, on which the notice was given, to submit an explanation in writing concerning the matter, which should include, to the extent possible and pertinent, references to procedures and remedies taken, or pending, or available in the matter.

2. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of article III only after it has ascertained that all available remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law.

Article V

In any matter referred to it, the Committee may call upon the States concerned to supply any relevant information.

Article VI

When any matter arising out of article III is being considered by the Committee, the Governments in question shall, if not already represented thereon, be entitled to send a representative to take part in the proceedings of the Committee, without voting rights, while the matter is under consideration. Adequate notice of the date on which the matter will be considered shall be given to the Governments in question.

Article VII

1. Subject to the provisions of paragraph 2 of article IV, the Chairman of the Committee, after the Committee has obtained and collated all the information it thinks necessary, shall appoint a Conciliation Commission hereinafter referred to as the Commission, of an ad hoc nature comprised of.....members with the full and unanimous consent of the parties to the dispute, whose good offices shall be made available to the States concerned with a view to an amicable solution of the matter on the basis of respect for the Convention.

2. The members of the Commission who shall serve in their personal capacity, must be persons of high moral standing and acknowledged impartiality in whom the parties to the dispute have confidence, but shall neither be nationals of the States Parties to the dispute nor of a State not party to this Convention.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. Before the commencement of its transactions each member of the Commission shall attest and affix his signature to three copies of the oath of impartiality prescribed below, a copy of each then being forwarded to the parties to the dispute and one to the Secretary-General for the archives of the United Nations.

Form of Solemn Declaration

I solemnly declare that I will honourably, faithfully, impartially and conscientiously perform my duties and exercise my powers as a member of the Commission appointed pursuant to article VII of the articles relating to measures of implementation of the Draft International Convention on the Elimination of All Forms of Racial Discrimination, to examine the complaint filed by the Government of _____ concerning the observance by _____ of the provisions of the said Convention, and to help find an amicable solution to the dispute.

5. The meetings of the Commission shall be held at the Headquarters of the United Nations, except where it becomes necessary to visit the disputant States.

6. The secretariat provided in accordance with article II, paragraph 3 shall also service the Commission whenever a dispute among States Parties brings it into being.

7. The States Parties to the dispute shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General.

8. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties to the dispute in accordance with paragraph 7 of the present article.

9. The information obtained and collated by the Committee shall be made available to the Commission and the Commission may call upon the States concerned to supply any other relevant information.

Article VIII

1. When the Commission has fully considered the complaint, it shall prepare a report embodying its findings on all questions of fact relevant to determining the issue between the parties and containing such recommendations as it may think proper as to the steps which should be taken to meet the complaint and the time within which they should be taken.

2. The Chairman of the Committee shall communicate the report of the Commission to the Secretary-General of the United Nations and to each of the Governments concerned in the complaint, and the Secretary-General shall cause it to be published.

3. Each of these Governments shall within three months inform the Secretary-General whether or not it accepts the recommendations contained in the report of the Commission; and if not, whether it proposes to refer the complaint to the International Court of Justice.

Article IX

1. With their common consent the parties to a dispute arising out of the interpretation or application of the Convention, whether it has been dealt with by the Commission of Conciliation or not, may submit the dispute to the International Court of Justice.

2. The International Court of Justice may affirm, vary or reverse any of the findings and recommendations of the Commission, if any.

3. The decision of the International Court of Justice in regard to a complaint or matter which has been referred to it in pursuance of the present article shall be final.

Article X

In the event of a State Party to the Convention failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission, or in the decision of the International Court of Justice, as the case may be, the Committee may recommend to the General Assembly or to the Security Council, as the case may be, such action as it may deem wise and expedient to secure compliance therewith.

Article XI

The defaulting Government may at any time inform the Committee that it has taken the steps necessary to comply with the recommendations of the Commission or with those in the decision of the International Court of Justice, as the case may be, and may request it to constitute a Commission of Conciliation to verify its contention. In this case the provisions of articles VII, VIII and IX shall apply,

and if the report of the Commission or the decision of the International Court of Justice is in favour of the defaulting Government, the Committee shall forthwith recommend the discontinuance of any action taken in pursuance of article X.

Article XII

1. Each State Party to this Convention shall constitute a National Committee consisting of nine members chosen from independent and objective persons not having any official connexion with the Government of the State.

2. Any person within the jurisdiction of the State claiming that any of his rights enumerated in the Covenant has been violated, may submit his case before this Committee.

3. The National Committee shall ascertain the facts and if it deems that the case is well founded, shall endeavour to obtain satisfaction for the petitioner from the Government.

4. In the event the said Committee does not succeed in obtaining satisfaction for the petitioner or should the Committee dismiss the case, either the Committee or the petitioner, as the case may be, shall have the right to appeal to the Committee established in accordance with paragraph 3 of article I.

5. The names of the members constituting the National Committee shall be registered with the United Nations.

6. The National Committee shall have an appropriate register to enter any complaint or alleged violation submitted to it, regardless of whether such complaint or violation is entertained by it or not.

7. Certified copies of the register mentioned in the previous paragraph shall be submitted by the National Committee to the Secretary-General on the understanding that the contents of such certified copies shall not be disclosed and will be kept confidential by the Secretary-General.

Article XIII

The provisions of this Convention concerning the settlement of disputes or complaints shall be applied without prejudice to existing constitutional or other binding provisions of agencies related to the United Nations dealing with the settlement of disputes or complaints in the field of discrimination, and shall not

prevent the States Parties to the Convention from resorting to other procedures for settling a dispute in accordance with the general or special international agreements in force between them.

Article XIV

No reservations shall be made under the present articles of implementation measures of this Convention.
