



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/1443 + 4 (1980)
9 December 1980

Original: ENGLISH/FRENCH/
SPANISH

COMMISSION ON HUMAN RIGHTS
Thirty-seventh session
Item 11 of the provisional agenda

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS
AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF
THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION;
ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE
UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE
ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Question of an intersessional role for the Bureau of the
Commission on Human Rights and of the possible need for
convening emergency sessions of the Commission

Report of the Secretary-General

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I. INTRODUCTION

1. The present report has been prepared in pursuance of Commission on Human Rights resolution 28 (XXXVI) of 11 March 1980. In this connection, the Economic and Social Council in its resolution 1979/36 of 10 May 1979, had requested the Commission on Human Rights to prepare suggestions on the possibility of convening meetings of the Bureau of the Commission in intersessional periods in exceptional circumstances.
2. In paragraph 4 of its resolution 28 (XXXVI), the Commission requested the Secretary-General to seek the views of Governments on the possibility of the creation of an intersessional role for the Commission's Bureau and on the possible need for convening emergency sessions of the Commission in order to consider responding to reports of mass and flagrant violations of human rights of an urgent nature, taking into consideration General Assembly resolution 32/130, and to report thereon to the Commission at its thirty-seventh session.
3. In paragraph 5 of the same resolution, the Commission requested the Secretary-General to submit to the Commission at its thirty-seventh session: available information on intersessional roles performed by the Bureaux of other bodies in the United Nations system; information on the means available, including financial implications, for the convening of intersessional meetings of the Bureau as well as of emergency sessions of the Commission; and any other information relevant to the subject.
4. In implementation of the above-mentioned resolution, the Secretary-General addressed a note verbale to Governments, on 30 June 1980, inviting them to forward to the Director of the Division of Human Rights, by 31 October 1980, any views they might wish to submit in accordance with paragraph 4 of Commission resolution 28 (XXXVI).
5. As of 1 December 1980, the Secretariat had received substantive replies from the following Governments: Austria, Botswana, Brazil, Colombia, Cuba, France, German Democratic Republic, Germany, Federal Republic of, Guatemala, Hungary, Jordan, Madagascar, Netherlands, Panama, Portugal, Sweden, Togo, and the United Kingdom of Great Britain and Northern Ireland.
6. The Director of the Division of Human Rights addressed a letter on 30 June 1980 to the Executive Heads of a number of Departments and Offices of the United Nations and specialized agencies, inviting them to forward to him by 31 October 1980, any information and views which they might wish to submit in accordance with paragraph 5 of the above-mentioned resolution.
7. As of 1 December 1980, substantive information or views had been received from the following: (a) United Nations Departments and Offices: Department of Political and Security Council Affairs, United Nations Development Programme, United Nations High Commissioner for Refugees; (b) specialized agencies: International Labour Organisation, Inter-governmental Maritime Consultative Organization, International Civil Aviation Organization, United Nations Educational, Scientific and Cultural Organization, World Health Organization.
8. The present report comprises three chapters. Chapter I contains a summary of views and comments submitted by Governments on the subject. Chapter II deals with the information provided by organs and agencies of the United Nations system relating to the intersessional roles performed by the bureaux of main bodies. Chapter III deals with additional information which appears to be of relevance to the subject.

9. In paragraph 5(b) of resolution 28 (XXXVI) the Secretary-General was requested to submit to the Commission at its thirty-seventh session, information on the means available, including financial implications, for the convening of inter-sessional meetings of the Bureau as well as of emergency sessions of the Commission. As regards the means available, the Secretary-General would comply with a request for inter-sessional meetings if given reasonable notice and if the necessary staff and resources are available for servicing such meetings. Financial implications have been provided in documents E/CN.4/L.1525 and E/CN.4/L.1526, and as indicated on a full cost basis, it is estimated that one inter-sessional meeting of the Bureau in Geneva, involving five working days would involve Conference Servicing costs of \$11,143 and travel costs of approximately \$6,000; one inter-sessional meeting of the Commission (emergency special session) in Geneva for five working days would involve conference servicing costs of \$134,112 and travel costs of approximately \$50,000.

I. SUMMARY OF VIEWS AND COMMENTS SUBMITTED BY GOVERNMENTS

AUSTRIA

[Original: English]

[31 October 1980]

10. The Government of Austria continuously supports measures on further promoting human rights mechanisms within the United Nation's system, particularly for emergency situations. Austria, therefore, favours both the creation of an intersessional role for the Bureau of the Commission on Human Rights as well as the creation of possibilities to convene emergency sessions of the Commission in case of assertions of mass and flagrant violations of human rights.

11. The intersessional role of the Commission's Bureau, in our view, should consist of a permanent readiness to be called upon and to rapidly take the necessary steps for convening, in case of need, an emergency session of the Commission.

12. In the creation of the possibility to approach the Commission on an ad hoc basis with particularly urgent and flagrant cases of violations of human rights, the Government of Austria sees several advantages compared to the existing situation:

(a) First, immediate action on a new problem reduces, if not entirely eliminates, risks of protraction or delaying procedures. Furthermore, the possibility to resort at any time to an international forum, specialized on human rights, prevents the possible danger that human rights violations are treated by fora which mainly are entrusted with political questions, a danger which might lead to adverse consequences.

(b) Finally, possibility to convene emergency sessions of the Commission might alleviate the workload of the regular sessions of the Commission. A decision to convene such emergency sessions as well as the establishment of agenda should be governed by the rules of procedure for functional commissions.

BOTSWANA

[Original: English]

[18 August 1980]

13. The Government of Botswana supports the idea of the convening of emergency sessions of the Commission on Human Rights in order to consider responding to reports of mass and flagrant violations of human rights of an urgent nature.

BRAZIL

[Original: English]

[14 August 1980]

14. As regards the possibility of convening emergency session of the Commission on Human Rights and the creation of intersessional functions for the Commission's Bureau, the Government of Brazil believes that it would be necessary to define clearly and precisely the scope of the functions attributed to the Bureau during intersessional periods as well as the nature of the decisions that it would be allowed to take during that time. The creation of intersessional functions does not presuppose, in fact, powers that are incompatible with the limits of the Bureau's representative role. The decisions with which the Bureau could be empowered would necessarily have a limited scope. Indeed, it would be unacceptable if during intersessional periods the Bureau were to assume ample representation of the political will of the other members of the Commission on Human Rights. It is difficult to conceive which decisions could be taken by the Bureau, beyond expressing concern with regard to specific situations and, eventually, requesting information to be submitted to the Commission itself. It is also the opinion of the Government of Brazil that decisions taken by the Bureau would necessarily be subject to referendum by the Commission's plenary.

15. The Government of Brazil also believes that in the case of emergency sessions, it would also be necessary to study the question of what functions would the Commission itself have since, in the event of urgent situations of serious violation of human rights which threaten international peace and security, the United Nations is already empowered with efficient mechanisms for action such as the convening of the Security Council and of emergency sessions of the General Assembly itself.

COLOMBIA

[Original: Spanish]

[7 August 1980]

16. The Government of Colombia does not consider it necessary to create an intersessional role for the Bureau of the Commission on Human Rights or to convene emergency sessions of the Commission in order to consider responding to reports of mass and flagrant violations of human rights of an urgent nature. Such reports can be considered during the Commission's regular sessions. In view of the financial situation of the United Nations, it is necessary to ensure that measures which involve increased expenditure are adopted only when absolutely essential.

CUBA

[Original: Spanish]

[3 October 1980]

17. The Government of Cuba is of the opinion that the Bureau of the Commission on Human Rights should meet, with the agreement of all elected members and with due regard for equitable geographical distribution, to discuss measures which may be required urgently in exceptional circumstances relating to mass and flagrant violations of human rights, as defined in General Assembly resolution 32/130. In addition, the States members of the Commission will have to be consulted on the measures to be adopted with regard to the above-mentioned situations.

FRANCE

[Original: French]

[3 November 1980]

18. The Government of France considers that the initiative in convening such emergency sessions should be taken by the Commission's Bureau, by majority decision. It would also be willing to consider an arrangement whereby this initiative would be the prerogative of the members of the Commission themselves, who would also take a majority decision.

19. Rather than assign a permanent intersessional role to the Commission's Bureau, France would favour the appointment, during sessions of the Commission on Human Rights, of experts who would be able to report at any time on specific cases warranting a meeting of the Bureau with a view to the possible exceptional convening of the Commission. These specific cases could encompass problems of human rights raised by mass population movements.

GERMAN DEMOCRATIC REPUBLIC

[Original: English]

[10 November 1980]

20. On several occasions, the Government of the German Democratic Republic has expressed its views on the issue "alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms", which the Third Committee of the United Nations General Assembly and the Human Rights Commission have been dealing with for years. In this connection, the Government of the German Democratic Republic has always stressed the complex nature of this issue. This complexity must, in the opinion of the German Democratic Republic, also be taken into account in the proposals contained in resolution 23 (XXXVI) adopted by the Commission on Human Rights at its thirty-sixth session, which aim at considering the possibility of an intersessional role for the Commission's Bureau and of convening emergency sessions of the Commission. The Government of the German Democratic Republic agrees to these proposals, provided the concept of General Assembly resolution 32/130 is taken as the underlying basis. This implies, *inter alia*, that the principle of equitable geographical distribution should be applied with regard to the composition of the Bureau, that the long-term programme of the Commission on Human Rights should be revised according to the basic principles in resolution 32/130 and that emergency sessions should be convened only in cases of mass and systematic violations of human rights as laid down in resolution 32/130. The German Democratic Republic reserves the right to further elaborate its position on this issue at a later date.

FEDERAL REPUBLIC OF GERMANY

[Original: English]

[17 November 1980]

21. As a matter of principle, the Government of the Federal Republic of Germany is in favour of strengthening the role of the Commission on Human Rights in the efforts to promote and encourage human rights. Thus it also takes a positive view of the idea of creating an intersessional role for the Commission's Bureau and of convening emergency sessions in cases of mass and flagrant violations of

human rights. A majority of Bureau members should be required to convene a special Bureau session. In addition, in order to do justice to the exceptional character of these emergency sessions, the Bureau should, to begin with, meet in Geneva or New York no more often than three or four times between two regular Commission sessions and not any longer than five days.

22. In accordance with paragraph 4 of Commission on Human Rights Resolution 28 (XXXVI) the Bureau should act in the manner described to consider responding to reports of mass and flagrant violations of human rights of an urgent nature.

23. In preparing the next regular or special session of the Commission, the Bureau action should first be directed towards establishing the facts of human rights violations and preparing the cases in such a way that a report can be made to the next Commission plenary session, which can then take the matter under consideration. If necessary due to the urgent nature of a certain case, it should be possible to adopt recommendations to the United Nations Secretary-General to the effect that he take preparatory action in order to be able to inform the next plenary session of the Commission on the matter.

GUATEMALA

[Original: Spanish]

[4 November 1980]

24. The Government of Guatemala is in favour of the action referred to in Commission resolution 28 (XXXVI), paragraph 4, of 11 March 1980.

HUNGARY

[Original: English]

[31 October 1980]

25. The Government of Hungary does not support the idea of convening emergency sessions of the Commission on Human Rights - at the initiative of the Commission or its Bureau - since that practice would run counter to the valid rules of procedure of the Functional Commissions of the Economic and Social Council.

JORDAN

[Original: English]

[20 August 1980]

26. The Government of Jordan approves the creation of an intersessional role for the Commission's Bureau and also approves convening emergency sessions of the Commission in order to consider responding to reports of mass and flagrant violations of human rights of an urgent nature.

MADAGASCAR

[Original: French]

[27 November 1980]

27. The Government of Madagascar has no objection to the proposal concerning the intersessional role which might be assigned to the Bureau of the Commission.

28. However, the Bureau's role should be limited to convening the Commission, which alone would be empowered to make any recommendation it deemed necessary.

NETHERLANDS

[Original: English]

[26 November 1980]

29. Even though, technically, members of the Commission on Human Rights hold tenure from January 1 till December 31, it is only during the annual six-week sessions that they can make the Commission respond to urgent human rights situations that have presented themselves during the preceding year. In between sessions, it is largely left to the Sub-Commission and to the General Assembly to deal with any such situations, if they see so fit. This system of intermittent consideration by the Commission of acute human rights questions does not do justice to the Commission's role as the central human rights organ of the United Nations, nor, and more important, does it warrant action where action is due. Rightfully, therefore, the Commission itself considered the possibility of some form of intersessional activity on its part. Resolution 28 (XXXVI) suggests two different avenues: an enhanced role for the Commission's Bureau and emergency sessions. These, of course, do not exhaust the possibilities for advancing the Commission's efficacy in the cause of human rights, neither that of the United Nations as a whole. As has been frequently argued by the Netherlands, the establishment of an office of High Commissioner for Human Rights would substantially raise the United Nations capacity to deal with human rights violations effectively, more so than creating an intersessional role for the Commission.

30. Despite this critical note, the Government of the Netherlands favours following both avenues suggested in resolution 28 (XXXVI) at the same time and submits that either one merits thorough discussion in the context of the 'overall analysis' during the thirty-seventh session. As for the Bureau, setting up a series of one or two-day meetings at fixed dates during the fifty-week intersessional period, would circumvent problems of prescribing when and for what reason the Bureau could convene. A frequency of four such meetings at regular intervals would allow human rights surveillance about every two and a half months, while three meetings would still leave the intermediate timespan no longer than three months. It is conceded that the proposed format would impose a considerable burden on the five heads of delegation who, as a rule, form the Bureau. Since it might be difficult for all of them to attend all of the intersessional meetings, one could allow for alternates being sent in their stead, it being understood that the Chairman could not be so substituted. However, since membership of the Commission is closely linked with the delegate representing the State concerned, members of the Bureau should make it a point to appear in person whenever circumstances so permit. Furthermore, the presence of four members of the Bureau (or alternates) would seem a suitable quorum, or, alternatively, three members including the Chairman. As Member States would have the option of sending alternates, it would not seem appropriate to permit the absence of only one chief delegate preventing the Bureau from meeting at all, even more so as some members of the Bureau may have to travel long distances, assuming that Geneva would be the place of venue.

31. As for the Bureau's intersessional mandate, it is understood that this could not go beyond the Commission's terms of reference proper. Within these general limits, the Bureau's activity should be geared to responding to reports of "mass and flagrant violations of human rights of an urgent nature", as is rightly pointed out in resolution 28 (XXXVI). Responding might take the form of

telegrams, letters or short resolutions or even decisions. In substance, the Bureau's activities should presumably have a more limited horizon than the full Commission's and have as their main object calling for an immediate cessation of the violations in question, asking for more information to be gathered by the Secretary-General and requesting the latter to use his good offices in the matter. In other words, action by the Bureau might be partly remedial, inasmuch as it would be directly concerned with the situation, and partly preparatory, inasmuch as it would pave the way for consideration of the question by the Commission's full membership during the regular sessions.

32. Turning to the possibility of emergency sessions, the Government of the Netherlands stated that calling an emergency session of the Commission would entail considerable costs to be borne by the regular United Nations budget, would substantially add to the workload of the Human Rights Division which is already under great strain, and would be troublesome for Member States having to send delegations on short notice. On the other hand, situations might arise where human rights are reportedly being violated in such a manner and on such a scale that an emergency session would indeed be the only compatible answer by the United Nations. To balance the two considerations, one might require a majority of the Commission's membership for convening such a meeting and stipulate further that emergency sessions may not extend beyond five working days. Besides, in order to forestall repeated calls for emergency sessions on different situations, one might create the possibility of introducing additional agenda items, once a session has been convened. It would also seem advisable to authorize the Bureau, when holding an intersessional meeting, to call for an emergency session of the Commission. As on all other questions, the Bureau should have to take such a decision by consensus.

33. As a final comment, the Government of the Netherlands suggested that after agreement has been reached on the parameters of an enhanced role for the Commission's Bureau and of the object and purpose of emergency sessions, these be cast in the form of annex to a resolution which, following endorsement by the Economic and Social Council, could then serve, as a basis for a revision of the Commission's rules of procedure, to be proposed by the Secretariat.

PANAMA

[Original: Spanish]

[20 August 1980]

34. The Government of Panama has no objection to emergency meetings being held during the Commission's sessions to consider reports of mass and flagrant violations of human rights.

PORTUGAL

[Original: English]

[2 October 1980]

35. The Portuguese Government is firmly committed to the establishment of effective machinery for the implementation of the human rights standards adopted within the United Nations system and by the various international organs and considers that better co-ordination of procedures is in principle desirable.

36. The international community must consider practical steps to make existing bodies more efficient and establish an appropriate organizational structure.

37. The Government of Portugal considers that the Bureau of the Commission could usefully be authorised to function as when required on an intersessional basis in order to receive and take action on reports of gross violations of human rights. Proposals for rules to govern such intersessional activities of the Bureau should be drafted.

38. The Government of Portugal also sees great interest in studying the possibility of convening emergency sessions of the Commission in order to consider responding to reports of mass or flagrant violations of human rights of an urgent nature. Further consideration should be given to ways and means of equipping the Commission on Human Rights with adequate resources so as to enable it to deal with emergencies arising out of gross and persistent violations of human rights.

SWEDEN

[Original: English]

[22 October 1980]

39. The Government of Sweden has already stated on previous occasions that it finds it highly desirable to establish a procedure which would make it possible, between the sessions of the Commission, to respond adequately to serious human rights situations of an urgent character. One way of achieving this aim would be to give the Bureau of the Commission competence to act on behalf of the Commission in urgent situations which arise between sessions. The Government of Sweden would look favourable on a procedure of this kind.

40. An alternative solution would be to establish a procedure for convening the Commission in an extraordinary session when an urgent human rights problem arises. This, however, would presumably be a less effective procedure, since there would in most cases be a great deal of reluctance to take this measure in view of the administrative and practical difficulties and the costs involved in organizing such an extraordinary session of the Commission.

41. The present inability of the Commission to deal with many urgent human rights problems could partly be overcome if the Commission met twice a year instead of only once. However, a reform of this kind would be meaningful only if it could be ensured that the second session would not simply be a repetition of debates which were already held during the first session. The financial implications must also be taken into account when this reform is compared with other proposals such as the one regarding the intersessional activities of the Bureau.

42. One further consideration is that not only the Commission but also the Sub-Commission on Prevention of Discrimination and Protection of Minorities should be able to act in human rights situations of an urgent character. As regards the Sub-Commission, one might also consider the possibility of entrusting certain intersessional functions to the Bureau or of holding sessions more than once a year. Moreover, it is desirable that the Sub-Commission should be allowed to bring serious human rights situations to the attention of the General Assembly without having to channel these matters through the Commission and the Economic and Social Council.

TOGO

[Original: French]

[18 August 1980]

43. In the opinion of the Government of Togo, it is desirable, in the interests of the effectiveness of the Commission on Human Rights, that there should be some means for its Bureau, or at least its secretariat, to be informed on a continuing basis of the most flagrant violations of the rights which it guards and promotes so that the protection of human rights does not suffer any interruption. It is also important for the Commission to be able to verify the accuracy of such reports so that emergency sessions may be organized when intolerable situations develop.

44. Although it lacks coercive powers, the Commission does possess the moral authority to help United Nations bodies and, in particular, its Secretary-General to remind national Governments of the commitments into which they have entered by agreeing to the Charter, from which the Declaration of Human Rights is indissociable. By making public a report whose accuracy has been verified, the Commission's Bureau could mobilize international public opinion, to which Governments are always to some extent sensitive. The organization of emergency sessions would have a psychological impact by disclosing situations which shock the conscience and should enable practical responses to be made to matters such as the proper reception of refugees, the organization of visits to detention camps and the distribution of relief, in conjunction with the specialized agencies of the United Nations. The solidarity of Governments of goodwill, which are loyal to the Charter, is expressed through support for the initiatives of the Commission and the organs of the United Nations, and remains the best guarantee of respect for human rights and the rights of peoples.

UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND

[Original: English]

[30 October 1980]

45. The Government of the United Kingdom of Great Britain and Northern Ireland urged that the Commission on Human Rights should hold two short sessions each year, instead of one comparatively long one.

46. The Government of the United Kingdom of Great Britain and Northern Ireland noted that provisions already exist in Economic and Social Council resolution 1156 (XLI) for decision by the Economic and Social Council to convene a Special Session of the Commission on Human Rights between regular sessions, if the need arises. This provision could be usefully supplemented by:

(a) the provision for a proportion of the membership of the Commission itself to call a meeting, on the model of Special Sessions of the General Assembly. In the case of the Commission on Human Rights this might be 15 of its members;

(b) the provision for a Special Session to be called on the initiative of the Secretary-General in accordance with General Assembly resolution 27 (XXXVI) when he believed that a sufficiently serious violation of human rights was taking place.

47. In judging the urgency and seriousness of the violation of human rights, members of the Commission and the Secretary-General should be guided by the Charter of the United Nations and the mandate of the Commission on Human Rights. They should also take into account relevant resolutions of appropriate bodies, including General Assembly resolution 34/175. In the view of the Government of the United Kingdom of Great Britain and Northern Ireland, costs of any new activity should be balanced by economies elsewhere.

II. SUMMARY OF INFORMATION FURNISHED BY ORGANS AND
AGENCIES OF THE UNITED NATIONS SYSTEM

A. UNITED NATIONS ORGANS

DEPARTMENT OF POLITICAL AND SECURITY
COUNCIL AFFAIRS

[Original: English]
[15 October 1980]

48. It has not been the practice of the bureaux of the bodies served by the Department of Political and Security Council Affairs to hold intersessional meetings. However, the following information on the work of the Security Council and the Special Committee against Apartheid be of interest to this subject.

49. Regarding the Security Council, under the Charter, the Security Council is well organized to be able to function continuously. Accordingly, the Security Council does not have regularly scheduled periodic sessions, but meets at any time. Moreover, the Council has a rotating Presidency, and does not have any other officers who share the role of the President for the month. The President calls meetings of the Security Council, according to its Provisional Rules of Procedure, at the request of any member of the Council, if a dispute or situation is brought to the attention of the Council under Article 35 or Article 11 (3) of the Charter, if the General Assembly refers any question to it under Article 11 (2), or if the Secretary-General brings any matter to its attention under Article 99. The Council's primary role being the maintenance of international peace and security, it does not deal specifically with human rights issues per se.

50. The Centre against Apartheid is servicing the Special Committee against Apartheid and the Ad Hoc Committee on the Drafting of an International Convention against Apartheid in Sports. A question of intersessional roles performed by the bureaux of these bodies has never arisen since both Committees have held their sessions year round whenever it was necessary. The bureaux prepare the agenda of the meetings of the Committees and make recommendations to them. The bureau may be authorized by the Committee to take decisions on some issues, in most cases on procedural matters.

UNITED NATIONS DEVELOPMENT PROGRAMME

[Original: English]
[7 October 1980]

51. From 1966 to 1977 the United Nations Development Programme Governing Council held two regular sessions annually in January and June. Although two special sessions of the Council were also held during this period, there were no intersessional activities as such in which the bureau could play a significant role other than consulting informally with the secretariat with respect to the organization of the next session.

52. In June of 1977, the Council decided to hold only one regular session annually with the proviso that special meetings could be convened intersessionally to consider, as necessary, such matters as the approval of country and intercountry programmes and projects as well as other urgent questions that could arise from action taken at the

preceding session of the General Assembly. Such special meetings were convened in January of 1978 and 1979 to consider and approve country and intercountry programmes, and in February 1980 to consider the question of preparation for the third programming cycle, particularly regarding the allocation of the Programme's resources during 1982-1986. At each of these meetings, moreover, matters requiring urgent action by the Council were considered as a result of decisions adopted by the General Assembly at its preceding session.

53. Despite this increased intersessional activity on the part of the Council, however, the role of the bureau remained one of informal consultant on matters of scheduling and organization of the meetings. The Rules of Procedure of the Governing Council, in fact, do not provide for any intersessional role for the bureau other than enabling a special meeting of the Council to be held at the request of the President, in consultation with the Administrator (Rule 2(d)). In sum, the intersessional role of the Governing Council's bureau to date has been negligible on both an informal and official basis.

54. The Council is currently considering the question of reorganizing its future sessions with a view towards streamlining its procedures, reducing the length of its sessions and limiting the amount of documentation. In this connection the possibly enhanced intersessional role of the bureau will be examined and relevant decisions could be taken by the Council at its next session in June 1981.

UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

[Original: English]

[17 September 1980]

55. The bureau of the Executive Committee of the High Commissioner's Programme has no formal, active role between sessions beyond that which is defined by the title of the office to which each member is elected.

56. According to Rule 10 of the Rules of Procedure of the Executive Committee, the Committee, shall, at the first meeting of the first regular session in any one year, elect from among the representatives, for the whole of that year, the following officers of the Committee: Chairman, Vice-Chairman and Rapporteur.

57. According to the provisions of Rule 1, the Executive Committee of the High Commissioner's Programme shall, as a rule, hold one session annually, in the autumn. At each session the Committee shall fix the approximate date of the opening of its next regular session. Other sessions of the Committee may be convened by the High Commissioner if in his opinion such action is necessary or if such a session is requested by not less than eight Members of the Committee.

B. SPECIALIZED AGENCES

INTERNATIONAL LABOUR OFFICE

[Original: English]

[30 October 1980]

58. As regards intersessional functions of the Officers of the International Labour Office Governing Body, paragraph 4 of Article 2, provides that the functions conferred on the Director-General by the Constitution of the Organisation being reserved, the Chairman shall supervise the observance of the provisions of the Constitution and the execution of the decisions of the Governing Body.

59. In paragraph 5 of the same Article, it is stated that for this purpose he shall, during the interval between the sessions, be invested with such functions as the Governing Body may deem fit to delegate him for the joint signature or the visa of certain documents, for the preliminary approval of inquiries, or for the despatch of official representatives of the Office to meetings, conferences or congresses.

60. As provided in paragraph 6 of the same article he shall receive from the Director-General a weekly report informing him of the chief events in the work of the Office. He shall be informed without delay by the Director-General of any events which may require his intervention, so that he may take, within the limits of his power, any steps which may be necessary. He will at his discretion consult the Vice-Chairmen upon any matter submitted to him for decision. Although it is no longer the practice to prepare the weekly report mentioned in paragraph 6, the Director-General keeps the Chairman and Vice-Chairmen informed of important developments and consults them on important policy matters.

61. In accordance with paragraph 7 of the same article he shall examine the working of the various services of the Office, and shall convoke the Programme, Financial and Administrative Committee when he considers necessary.

62. Under paragraph 8 the Governing Body may delegate to its Officers the authority to carry out its responsibilities under article 18 of the Standing Orders of the International Labour Conference. Any such delegation shall be made only for one specific session of the Conference, and relate only to proposals involving expenditure during a financial period for which a budget has already been adopted.

63. The possibility of calling special meetings of the Governing Body is provided for in Article 20 of the Standing Orders. There has not been any case in recent years of a request which would have made the holding of such a meeting mandatory. There have been one or two cases in which the Chairman has received suggestions between sessions for the holding of a special session; he decided, after consultation of the Vice-Chairmen, not to summon such a session, by reference, in particular, to the proximity of the next ordinary session and the cost of a special session. The last special session was convened by the Chairman in 1970, on the basis of discussions which took place at the preceding ordinary session; the necessary funds were made available by that ordinary session.

(a) Representations under Article 24 of the ILO Constitution

64. At its 212th Session, March 1980, the Governing Body adopted revised standing orders for examination of the representations. A copy of these standing orders is enclosed. In submitting this text to the Governing Body, the competent committee pointed out that the main purpose of the revision was to simplify and expedite the procedure, and that one of the changes made for this purpose was to entrust to the Officers of the Governing Body the examination of the receivability of a representation, instead of leaving this question to the committee set up to examine the substance of the issues raised. The question of receivability could thus be decided by the Governing Body, on the report of its Officers, at the first session at which the representation was brought before the Governing Body. 2/

1/ See the draft minutes of the 191st session of ILO's Governing Body, November 1973, (GB.191/PV), p. II/1.

2/ See GB.212/14/21, paras. 38 and 39.

(b) Complaints under Article 26 of the Constitution

65. There are no standing orders to govern the examination of such complaints. In practice, complaints are brought before the Governing Body by means of a report of its Officers together with proposals by them as to the action to be taken in accordance with Article 26 of the ILO's Constitution.

(c) Governing Body Committee on Freedom of Association

66. Complaints of infringements of trade union rights are, in the first instance, brought before the Committee on Freedom of Association. In its 193rd Report, the Committee reviewed its procedure and made a series of proposals for further improvements. These proposals were approved by the Governing Body at its 210th Session (May-June 1979).

67. As stated in the Committee's report there are cases where there is a lapse of several months between the receipt of the government's observations and the next meeting of the Committee at which such information or comments can be requested from the complainants. In order to expedite the procedure, the Committee considers that it would be useful if the Director-General were to ascertain whether in the light of the observations sent by the government concerned further information or comments from the complainants were necessary on matters relating to the complaint and, if so, to write directly to the complainants, in the name of the Committee and without waiting for its next session, requesting the desired information or the comments on the government's observations by a given date, it being understood that the government, as defendant, would have an opportunity to reply to any new information or comments submitted by the complainants. 1/

68. As regards the rules concerning relations with governments and in order to make the procedure more expeditious, the Director-General was empowered to ascertain whether the observations of governments on the subject matter of a complaint or the governments' replies to requests for further information were sufficient to permit the Committee to examine the complaint and, if not, to write directly to the government concerned, in the name of the Committee and without waiting for its next session, to inform it that it would be desirable if the government were to furnish more precise information on the points raised by the Committee or the complainant. 2/

69. "Direct contacts" missions are an important aspect of the Committee's procedure whereby a representative of the Director-General of the ILO -- who can be an independent person or an official of the ILO -- is sent to the country concerned in order to ascertain the facts relating to a case and to seek possible solutions to the difficulties encountered, either during the examination of the case or at the stage of the action to be taken on the recommendations of the Governing Body. The Committee and the Governing Body remain fully competent to appraise the situation at the outcome of these direct contacts. This procedure can only be established at the invitation of the governments concerned or at least with their consent. 3/

1/ Report of the Governing Body Committee on Freedom of Association (190th, 191st, 192nd, 193rd). International Labour Office Official Bulletin, Vol. LXII, 1979, Series B. No. 1, para. 14.

2/ Ibid., para. 15.

3/ Ibid., para. 26.

70. Again for the purpose of expediting the procedure, further improvements were made recently. At its February 1977 Session the Committee stated its intention to make wider use of direct contacts, particularly where serious allegations are involved or where difficulty is experienced in obtaining sufficiently precise information. In addition, the Committee decided that, in cases where a complaint of a particularly urgent or serious nature had been presented between two sessions of the Committee, the Director-General may, having received the prior approval of the Chairman of the Committee, propose to the government concerned that the direct contacts procedure be engaged with a view to placing before the Committee a report on the situation as soon as possible. At its session in February-March 1978 the Governing Body, in approving the report of its Committee on Standing Orders and on the Application of Conventions and Recommendations, stressed the importance of direct contacts and invited the Director-General, the supervisory bodies and the governments concerned to have recourse to the procedure of direct contacts whenever it might contribute to a better understanding of situations and the useful examination of solutions to problems. 1/

71. In most cases direct contacts have not taken place until some time after the events under consideration have occurred. A speedier mission by an ILO representative in the country concerned in certain cases where complaints have been received would appear desirable for a variety of purposes: to transmit to the competent authorities in the country the concern to which the events described in the complaint have given rise; to explain to those authorities the principles of freedom of association involved; to obtain from the authorities their initial reaction, as well as any comments and information with regard to the matters raised in the complaint; to explain to the authorities the special procedure in cases of alleged infringements of trade union rights, and in particular the direct contacts method which may subsequently be requested by the government in order to facilitate a full appraisal of the situation by the Committee and the Governing Body; to request and encourage the authorities to communicate as soon as possible a detailed reply containing the observations of the government on the complaint. A procedure of this kind has been used in recent cases. 2/

72. The last mentioned procedure had already been used in some cases; they concerned the detention of the three principal officers of the Confederation of Ethiopian Labour Unions and the arrest of a large number of trade union leaders in Tunisia following a general strike. More recently, the procedure has been used in connection with complaints of violation of trade union rights following the change of régime in Bolivia. The Director-General may also contact the officers of the Freedom of Association Committee between sessions to inform them of major developments and consult them, as appropriate.

INTER-GOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION

[Original: English]

[27 October 1980]

73. The Assembly and the Council of the Inter-Governmental Maritime Organization meet in "regular" and also in "extraordinary" sessions.

74. The Assembly of IMCO meets in regular sessions once every two years. Extraordinary sessions of the Assembly may be convened at the request of one-third of the members or at any time if deemed necessary by the Council, after a notice of 60 days in accordance with Article 14 of the Inter-Governmental Maritime Convention.

1/ Ibid., para. 27.

2/ Ibid., para. 28.

75. The Convention also provides that the Council shall perform all the functions of the Organization (with one exception), when the Assembly is not in session. The Council normally meets twice a year but it may be convened upon one month's notice as often as may be necessary for the efficient discharge of its duties, upon the summons of its Chairman or upon request by not less than four of its members, as set in Article 20 (c) of the Inter-Governmental Maritime Organization Convention. Similar provisions are made in the Rules of Procedure of the principal committees of the Organization.

INTERNATIONAL CIVIL AVIATION ORGANIZATION

[Original: English]

[28 July 1980]

76. The International Civil Aviation Organization pointed out that its Council is virtually always in session. It referred to the relevant provisions of the rules of procedure of its Council.

77. According to the provisions of rule 19, the Council shall meet at such times and for such periods as it deems necessary for the proper discharge of its responsibilities. The Council shall determine the dates of the opening and termination of each session.

78. Rule 20 provides that between two consecutive sessions of the Council, the President, on his own initiative or at the request of a contracting State, after consulting the members of the Council and with the approval of the majority of the members of the Council, shall call an extraordinary session or change the date which the Council has set for the opening of the next session. No such action shall result in a Council meeting being held on less than seven days' notice.

79. As set out in rule 21, if a part of a Council session is devoted primarily to Committee meetings, the President may call such Council meetings as he considers necessary. No such meetings shall be called on less than forty-eight hours' notice without the approval of the majority of the Council.

80. As provided for in rule 22, the Council shall meet at the seat of the Organization unless the Council decides that a particular session or meeting shall take place elsewhere.

UNESCO

[Original: French]

[3 December 1980]

81. As you are aware, the procedure followed by UNESCO in respect of the consideration of cases and questions relating to the exercise of human rights was laid down by the Executive Board in decision 3.3 adopted by the Board at its 104th session (April/June 1978). I enclose the text of this decision for such purposes as may be necessary.

82. The secretariat of UNESCO is of the opinion that any measure designed to strengthen the activities of the Commission on Human Rights, particularly in emergencies, is to be encouraged. As far as UNESCO is concerned, the urgent nature of certain individual communications relating to alleged violations of human rights has been referred to on several occasions in the Executive Board's Committee on Conventions and Recommendations. In this connection, however, it should be noted that decision 104 EX/3.3 defining the procedure followed by the Committee does not contain any specific provision regarding the urgent consideration of communications.

83. In reply to the request for information contained in resolution 26 (XXXVI), paragraph 5, I can merely quote the contents of article V, paragraph 8, of the Constitution of UNESCO:

"The Executive Board shall meet in regular session at least twice a year and may meet in special session if convoked by the Chairman on his own initiative or upon the request of six members of the Board."

84. In the event, the Executive Board has held only two special sessions, in 1948 and in 1949.

85. The Bureau of the Executive Board holds a short session (usually two days) immediately before each session of the Board in order to make preparations for it. The Bureau does not meet in the interval between two sessions of the Board but there is nothing to prevent it from doing so if the Board so decides.

WORLD HEALTH ORGANIZATION

[Original: English]

[1 October 1980]

86. Whereas neither the Constitution of the World Health Organization nor the rules of procedure of the World Health Assembly and of the Executive Board provide for intersessional meetings of the bureau, provision is made for emergency sessions of the Organization's governing bodies. The relevant provisions are contained in articles 13, 14, 15 and 28(i) of the Constitution; in articles 3, 6, 7 and 12 of the rules of procedure of the Health Assembly; and in articles 6, 8 and 10 of the rules of procedure of the Executive Board.

87. Article 13 of the Constitution of the World Health Organization provides that the Health Assembly shall meet in regular annual session and in such special sessions as may be necessary. Special sessions shall be convened at the request of the Board or of a majority of the Members.

88. As provided for in article 14 of the World Health Organization's Constitution, the Health Assembly, at each annual session, shall select the country or region in which the next annual session shall be held, the Board subsequently fixing the place. The Board shall determine the place where a special session be held.

89. In accordance with article 15 of the World Health Organization's Constitution, the Board, after consultation with the Secretary-General of the United Nations, shall determine the date of each annual and special session.

90. In accordance with paragraph (1) of article 28 of the World Health Organization's Constitution, the functions of the Board shall be to take emergency measures within the functions and financial resources of the Organization to deal with events requiring immediate action. In particular, it may authorize the Director-General to take the necessary steps to combat epidemics, to participate in the organization of health relief to victims of a calamity and to undertake studies and research the urgency of which has been drawn to the attention of the Board by any Member or by the Director-General.

91. The rules of procedure of the World Health Assembly provide that notices convening a regular session of the Health Assembly shall be sent by the Director-General not less than sixty days and notices convening a special session not less than thirty days before the date fixed for the opening of the session, to

Members and Associate Members, to representatives of the Board and to all participating intergovernmental and non-governmental organizations admitted into relationship with the Organization invited to be represented at the session. The Director-General may invite States having made application for membership, territories on whose behalf application for associate membership has been made, and States which have signed but not accepted the Constitution to send observers to sessions of the Health Assembly.

92. As provided for in rule 6 of the rules of procedure of the World Health Assembly, the Director-General shall draw up the provisional agenda for any special session of the Health Assembly and dispatch it together with the notice of convocation mentioned in rule 3.

93. According to the provisions of rule 7, the provisional agenda for each special session shall include only those items proposed in any request by a majority of the Members and Associate Members of the Organization or by the Board for the holding of the session, pursuant to rule 2.

94. Further, regarding regular and special sessions, rule 8 of the rules of procedure of the World Health Assembly provides that the Director-General shall enter into consultation with the United Nations or the specialized agencies on items, proposed in conformity with these rules, relating to new activities to be undertaken by the Organization which are of direct concern to such organization or organizations, and shall report to the Health Assembly on the means of achieving co-ordinated use of the resources of the respective organizations. When such proposals are put forward during the course of a session, the Director-General shall, after such consultation as may be possible with representatives of the United Nations or specialized agencies attending the session, draw the attention of the Health Assembly to the full implications of the proposal.

95. In accordance with rule 9, the Health Assembly shall satisfy itself that adequate consultations have taken place with the organizations concerned in accordance with rule 8 before taking action on such new activities.

96. Rule 10 stipulates that: the Director-General shall consult the United Nations and the specialized agencies, as well as Member States on international conventions or agreements or international regulations proposed for adoption in respect of any provision thereof which affects the activities of such organization or organizations, and shall bring the comments of such organization or organizations to the attention of the Health Assembly together with the comments received from governments.

97. According to rule 11, unless the Health Assembly decides otherwise in case of urgency, proposals for new activities to be undertaken by the Organization may be placed upon the supplementary agenda of any session only if such proposals are received at least six weeks before the date of the opening of the session, or if the proposal is one which should be referred to another organ of the Organization for examination with a view to deciding whether action by the Organization is desirable.

98. Rule 12 provides that subject to the provisions of rule 11 regarding new activities and to the provisions of rule 93, a supplementary item may be added to the agenda during any session, if upon the report of the General Committee the Health Assembly so decides, provided that the request for the inclusion of the supplementary item reaches the Organization within six days from the day of the opening of a regular session or within two days from the day of the opening of a special session, both periods being inclusive of the opening day.

99. As provided for in rule 13 the Director-General shall report to the Health Assembly on the technical, administrative and financial implications of all agenda items submitted to the Health Assembly before they are considered by the Health Assembly in plenary meeting. No proposal shall be considered in the absence of such a report unless the Health Assembly decides otherwise in the case of urgency.

100. According to the provisions of rule 6 of the rules of procedure of the Executive Board, the Director-General shall also convene the Board at the joint request of any ten members, addressed to him in writing and stating the reasons for the request. In this case the Board shall be convened within thirty days following receipt of the request and the session shall be held at headquarters unless the Director-General, in consultation with the Chairman, determines otherwise. The agenda of such a session shall be limited to the questions having necessitated that session. If events occur requiring immediate action under Article 28(i) of the Constitution the Director-General may, in consultation with the Chairman, convene the Board in a special session and shall fix the date and determine the place of the session.

101. Rule 8 of the rules of procedure of the World Health Organization's Executive Board states that: the provisional agenda of each session shall be drawn up by the Director-General in consultation with the Chairman. It shall be dispatched with the notice of convocation to be sent in accordance with rule 5 or rule 6, as the case may be.

102. Rule 10 of the rules of procedure of the Executive Board provides that except in the case of special sessions convened under Rule 6, the Director-General may, in consultation with the Chairman, include any question suitable for the agenda which may arise between the dispatch of the provisional agenda and the opening day of the session in a supplementary agenda which the Board shall examine together with the provisional agenda.

III. OTHER INFORMATION RELEVANT TO THE SUBJECT

Sub-Commission on Prevention of Discrimination
and Protection of Minorities

103. At its thirty-third session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, on 12 September 1980, adopted resolution 24 (XXXIII) entitled "Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories". This resolution may be of relevance to the subject under review.

104. In the above-mentioned resolution, the Sub-Commission, recalling the provisions of paragraphs 4 and 5 of resolution 28 (XXXVI) of the Commission on Human Rights and conscious of the needs to develop further the possibilities open to the United Nations for dealing with situations of gross violations of human rights of an urgent nature which may arise, particularly in periods when neither the Commission nor the Sub-Commission is in session decided to inform the Commission of its readiness to assist the Commission in responding to reports of mass and flagrant violations of human rights of an urgent nature and, to this end, recommended that the Commission, in considering this matter, should give attention also to ways and means by which the Sub-Commission, particularly having regard to the expert character of its composition, can contribute to the response of the United Nations to reports of mass and flagrant violations of human rights of an urgent nature.

105. In the same resolution, the Sub-Commission urged the Commission to consider approaches to the handling of emergency situations by the United Nations which seek to complement the activities of the Commission by utilizing the possibilities of the various Charter-based human rights organs which meet outside of the annual session of the Commission, such as the General Assembly, the Security Council and the Economic and Social Council, and by drawing upon the possible assistance of subsidiary organs such as the Sub-Commission on Prevention of Discrimination and Protection of Minorities. It recommended to the Commission on Human Rights that it recommend the Economic and Social Council to consider including a regular item on its agenda the question of emergency situations of violations of human rights and suggested also that due consideration be given to the various useful avenues open to the Secretary-General in responding to reports of mass and flagrant violations of human rights of an urgent nature by, for example, bringing a United Nations presence to bear on situations through the exercise of his good offices, through personal contacts, the use of special representatives, members of the United Nations Secretariat, United Nations field officers, other emissaries, or through other appropriate discreet methods.

106. The Sub-Commission also decided to draw the attention of the Commission to the following ideas which may be considered in connection with possible future roles of the Sub-Commission as part of the United Nations responses to urgent situations of violations of human rights:

- (1) The Sub-Commission may be used as a forum for discussing emergency situations or for expressing international concern thereon.

- (2) The Sub-Commission may seek appropriate channels within the United Nations to bring a United Nations presence to bear upon situations as a matter of urgency. This could be done, for example, by the Sub-Commission drawing a situation to the attention of the President of the General Assembly, the President of the Security Council, the President of the Economic and Social Council, the Chairman of the Commission on Human Rights, or the Secretary-General, as appropriate, with a view to their interceding with the Government concerned or taking other appropriate action.
- (3) In particularly serious instances the Sub-Commission could draw a situation directly to the attention of the General Assembly, which meets shortly after the sessions of the Sub-Commission.
- (4) The Sub-Commission could suggest the inclusion in the agenda of the next session of the Commission of an item or a subitem on a specific situation or on emergency situations.
- (5) The Sub-Commission could, in situations which it considers especially serious, designate one of its members to make an analysis of the information available on that situation and present that analysis to the Commission on Human Rights at its next session.
- (6) In situations considered by the Sub-Commission, the Sub-Commission could be granted the competence of intercede, through the Secretary-General, directly with Governments concerned if this appears necessary in order to save lives or to prevent imminent danger to life or physical integrity or security.
- (7) Consideration could be given to the possibility of utilizing the Bureau of the Sub-Commission to respond to emergency situations of violations of human rights, particularly having regard to the expert character of the membership of the Sub-Commission and of its Bureau.