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Fifteenth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 344th MEETING

Held at Headquarters, New York,
on Monday, 29 March 1982, at 3 p.m.

Chairman: Mr. TOMUSCHAT

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* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.344/Add.1.

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The meeting was called to order at 3.30 p.m.

ORGANIZATIONAL AND OTHER MATTERS (continued)

1. Sir Vincent EVANS said that he wished to clarify two points of his proposed amendments to rule 91 of the Committee's provisional rules of procedures (CCPR/C/3/Rev.1), since it had been apparent from Mr. Tarnopolsky's comments in the previous meeting that there was some misunderstanding as to their intention.

2. Mr. Tarnopolsky was mistaken in believing that if the proposed procedure were followed it would be sufficient for a State party to indicate, within the time-limit set by the Committee, that it had unspecified objections to the admissibility of a communication and that it would then be given a further period of, say, two or three months in which to elaborate those objections. That was certainly not the intention, since it would represent no time saving; he believed that it was quite clear from the second sentence of his new paragraph 4 to rule 91 that the procedure laid down in rules 93 and 94 would apply straight away upon the Committee's provisional determination that the communication was admissible, subject only to the one specified period of time designed to enable the State party concerned to submit reasons for objecting to that determination.

3. Mr. Tarnopolsky had also not been clear on the point of time from which the six-month time period allowed the State party under article 4 (2) of the Optional Protocol and rule 93 of the rules of procedure would come into effect. He believed that it was clear in the proposed new paragraph 4 of rule 91 that, if the State party raised no objections to admissibility, the six months would start immediately upon the Committee's provisional determination that the communication was admissible. If, on the other hand, the State party raised objection, the Committee would first decide the question of admissibility as a preliminary issue; the six-month period would then take effect from that decision.

4. Mr. LALLAH said that he fully concurred with the intention of the amendments outlined by Sir Vincent Evans but did not interpret the text of those amendments in the same way. They had many practical implications, since time-limits of three or six months were very material in view of the time required for the handing down of the Committee's decisions to States parties. Sir Vincent's amendments, as well as those proposed by Mr. Tarnopolsky, would benefit from further study. He proposed that a decision should be deferred until a later stage in the session.

5. Mr. OPSAHL referred to the amendments to rule 93 proposed by Mr. Tomuschat. He had reservations concerning the suggestion that the present paragraph 4 of that rule should become paragraph 4 of rule 91. In his view, the paragraph logically belonged where it was at present, as a safeguard clause enabling the Committee to reconsider a decision regarding admissibility should any new argument be put forward by the State party during the subsequent consideration of the merits of the case.

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6. He was also not convinced of the reasoning behind the proposed new paragraphs 4 and 5, which were concerned with giving the State party further opportunity to respond to the arguments of the author of the communication. In his view, the procedure laid down in article 4 of the Optional Protocol, as reflected in rule 93 of the rules of procedure as it stood, was adequate; both parties were heard equally and no injustice was done to States parties.

7. The weakness of the present system for the consideration of communications lay in its slowness and the fact that it was not always possible to gather sufficient information upon which to base a satisfactory decision. It was regrettable that so little progress was often made in the six-month period allowed to the State party; although theoretically it was a maximum period, it was often treated effectively as a minimum, and the State party was not given any real incentive to settle the matter, or provide a remedy, within the time allowed. That was a problem, however, which could not be solved by amendments to individual paragraphs, and he proposed that a decision on those amendments should be deferred, subject to a more thorough revision of the Committee's method of work.

8. Mr. LALLAH said that he agreed with Mr. Opsahl's approach. He felt that the new system proposed by Mr. Tomuschat would tend to prolong rather than shorten the procedure in that it left the initiative with the parties involved rather than with the Committee. The original procedure had been based on the mistaken assumption that the initial communication received would contain most if not all the information required for a decision; it had then proved necessary to introduce rule 91, providing for requests for additional information, and rule 93, enabling the Committee to revise its opinion on admissibility at a later stage. The procedure proposed by Mr. Tomuschat might encourage the adding of yet a third stage to the procedure, while what was needed was a procedure capable of ensuring that States parties and authors of communications submitted all the necessary information at the first stage of the procedure.

9. The CHAIRMAN said that there appeared to be three issues to be considered: first, whether any amendment to the rules of procedure regarding the consideration of communications was necessary; secondly, whether the effect of the various new rules proposed would be to speed up or to prolong the process; and, thirdly, whether the Committee's decisions arrived at by the existing procedure gave the State parties concerned a fair hearing. The Committee would defer the discussion of the matter until a later stage in the current session, to allow time for informal consultations.

10. Mr. AL DOURI proposed that Arabic should be adopted as an official and working language of the Committee. The Arab peoples were a legitimate concern of the Committee from the human rights point of view and should be able to follow its work in their own language. Moreover, the Arabic-speaking members of the Committee could be of assistance in promoting human rights in the Arab world. In view of the Committee's close relationship with the General Assembly and other United Nations organs, it should respond actively to General Assembly resolution 35/219 A, which requested the Security Council and the Economic and Social Council to introduce Arabic.

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11. The CHAIRMAN said that such a proposal would involve an amendment to rule 28 of the Committee's rules of procedure. He felt that further study and information from the Secretary-General would be necessary as a basis for a discussion.

12. Mr. HOUSHMAND (Representative of the Secretary-General) said that the Committee's annual reports to the General Assembly were issued in all the official languages of the United Nations, including Arabic, and were widely distributed. However, reports from Governments received in Arabic had to be translated for the benefit of the Committee. He would welcome the general opinion of the Committee so that further study could be given to the matter, bearing in mind that the Security Council and the Economic and Social Council themselves had not yet taken a final decision.

13. Mr. LALLAH said that he saw the proposal as useful from the point of disseminating the Committee's documents and decisions as widely as possible. The question was a matter for consideration by the Secretary-General and the General Assembly, particularly from the point of view of its financial implications.

14. Sir Vincent EVANS agreed that the financial implications of the proposal would have to be studied elsewhere. The Committee itself should consider the matter and make a recommendation in principle.

15. The CHAIRMAN said that the Committee would resume discussion of the proposal in the last week of the current session.

The public meeting rose at 4.10 p.m.