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THIRD COMMITTEE
Agenda item 12

REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

Draft report of the open-ended Working Group on the Drafting of an
International Convention on the Protection of the Rights of All
Migrant Workers and Their Families

Chairman: Mr. Antonio GONZALEZ DE LEON (Mexico)

Vice-Chairman: Mr. Juhani LONNROTH (Finland)

Addendum

Article 70, paragraph 6

1. At its 7th and 8th meetings on 30 September 1988, the Working Group considered paragraph 6 of article 70 on the basis of article 6 contained in the right hand column of document A/C.3/43/WG.I/CRP.1/Rev.1.
2. During the discussion, the representative of Cape Verde proposed that the words "be invited to" be inserted after the word "shall" because he wanted the nomination to be a right rather than an obligation of States. He suggested that some sort of mechanism for settling a deadlock if the Committee declines to approve a State Party nominee.
3. While the representative of the Federal Republic of Germany endorsed this proposal, the representative of Italy suggested to leave the text as it stood.
4. The representative of the Federal Republic of Germany raised a question as to what would happen if the Committee does not approve such nomination. The representative of Finland who also raised that question suggested that perhaps a sentence could be added to the paragraph stating that any States Party should be allowed to nominate an expert to fill the vacancy. He also suggested that nominations be subject to other States Parties rather than being restricted to the Committee.

5. The representative of Tunisia placed on record that his delegation, while joining in the consensus on article 70, paragraph 6, found it regrettable that the Working Group had not considered the paragraph in more depth; although relevant, it was too short. In that respect, his delegation believed that the Working Group should have based itself on the provisions of article 33 of the International Covenant on Civil and Political Rights which were more explicit.

6. After some discussion, the Working Group adopted paragraph 6 of article 70 as follows:

6. If an expert has ceased to function as a member of the Committee before the expiry of his term, the State Party which nominated the expert shall appoint another expert for the remaining part of the term. The new appointment is subject to the approval of the Committee.

Paragraph 7

7. At its 9th meeting on 3 October 1988, the Working Group resumed consideration of paragraph 7 of article 70.

8. The Chairman observed that there were three possible methods of financing the Committee. He indicated that either the United Nations or the States Parties could be solely responsible or that there could be a division of responsibilities whereby the transport and expenses of members would be covered by States Parties and general facilities covered by the United Nations.

9. The representative of Mexico expressed support for the proposal for paragraph 7 as contained in document A/C.3/43/WG.I/CRP.5 on the basis that experience has shown the proposed arrangements to be effective.

10. The representative of the Federal Republic of Germany referred to his statement during the 6th meeting and said that as the Working Group consisted of experts on migration it should seek the views of bodies expert in financial matters before taking decisions regarding the financial aspects of the Convention.

11. The representative of Egypt supported the proposal for paragraph 7 as contained in document A/C.3/43/WG.I/CRP.5

12. The representative of the USSR expressed support for the proposal for paragraph 7 contained in document A/C.3/43/WG.I/CRP.5 on the basis that committees financed by States Parties have run into financial problems. He therefore preferred to see the Committee financed from the United Nations regular budget.

13. The representative of Australia proposed that States Parties be responsible for the finances of the Committee. He indicated that a division of finances whereby States Parties paid for the travel and expenses of Committee members and the United Nations financed the provision of general facilities would be disproportionate since the latter formed the majority of total costs. He indicated that with limited resources available it would not be desirable for the United

Nations to have to transfer priorities within its human rights programme. He suggested that the question of finances be examined by a body more qualified to do this than the Working Group.

14. The representative of the United States expressed a wish for the Committee to be funded by States Parties. He supported the representative of the Federal Republic of Germany in stating that the Working Group did not have enough expertise in these financial matters.

15. At the 9th meeting on 3 October 1988, the Working Group adopted the text for paragraph 7 of article 70, as contained in document A/C.3/43/WG.I/CRP.5.

16. The representative of the United States indicated that he had joined the consensus in support of paragraph 7 on the basis that the paragraph could not be taken as having decided who would ultimately be responsible for the finances of the Committee.

17. The text of paragraph 7 of article 70 as adopted on second reading reads as follows:

7. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee.

Paragraph 8

18. At its 10th meeting on 3 October 1988, the Working Group continued its consideration of article 70.

19. The representative of Yugoslavia supported the proposal for paragraph 8 contained in document A/C.3/43/WG.I/CRP.5 on the basis that the United Nations should be responsible for the finances of the Committee.

20. The representative of China expressed support for the view that the United Nations should be responsible for the finances of the Committee. He questioned, however, the United Nations ability to bear such a responsibility and agreed with the representative of the Federal Republic of Germany that a body more expert on the question of finance should consider this question before the Working Group took a final decision on the issue.

21. The representative of Finland indicated that the adoption of the text for paragraph 8 proposed in document A/C.3/43/WG.I/CRP.5 would not decide the question of who would be responsible for the Committee's finances.

22. The representative of Morocco expressed the view that the United Nations should be responsible for the finances of the Committee in order to ensure the integrity and impartiality of the experts. She took the view that it was up to the Working Group to decide on all questions concerning the Convention and that it would be up to others to implement whatever decision was taken.

23. The representative of the United States disagreed with the representative of Finland by stating that in his view adoption of paragraph 8 as proposed in document A/C.3/43/WG.I/CRP.5 would decide the question of responsibility for funding. He further stated that funding by States Parties would not affect the impartiality of experts as the States Parties would collectively be responsible for all finances.

24. The representative of Sweden took the view that the United Nations should be responsible for the finances of the proposed Committee. He pointed out that the Charter of the United Nations made it a fundamental task of the United Nations to safeguard human rights. He observed that committees guided wholly or partly by States Parties were not always effective and that therefore the question of finances was not a strictly budgetary one but was partly political. He supported the representative of Morocco in saying that the Working Group could decide on the issue of finances without referring to any other body.

25. The representative of the Netherlands supported the representative of Sweden in calling for the proposed Committee to be funded by the United Nations. He indicated that to have funding directly by States Parties would be unfair on poorer States as such a system would affect them more and would in effect amount to a penalty for their ratifying the Convention. He indicated that the Convention was based on a consensus and that it would not be appropriate to then allow States the option of not funding its costs because they did not wish to ratify it. He also stated that the question of finances was not a strictly budgetary one and that it had some political aspects and agreed with the representative of Morocco that the Working Group was competent to decide on the issue. He agreed with the representative of Australia that limited resources were available to the United Nations but indicated that that should not stop it from funding the finances of the Convention. He indicated that putting pressure on the United Nations budget might encourage States to contribute more to it.

26. The representative of Algeria supported the proposal for paragraph 8 as contained in document A/C.3/43/WG.I/CRP.5 and agreed with the representatives of Morocco and Sweden that questions of finance concerning the Convention were partly political and could therefore be decided on by the Working Group.

27. The representative of the Federal Republic of Germany expressed support for the comments by the representative of the United States with regard to the proposal for paragraph 8 as contained in document A/C.3/43/WG.I/CRP.5. He further explained his earlier suggestion as meaning that the Working Group should seek the advice of more expert bodies on the question of finance and not simply leave the question for them to decide.

28. The representative of Australia indicated that in accepting the proposal for paragraph 8 as contained in document A/C.3/43/WG.I/CRP.5 would mean accepting United Nations funding for the proposed Committee. He stated that he would prefer to see funding by States Parties. He further suggested that the question of finances should not be decided on until other bodies, such as the Third Committee, which contain more Parties who will ultimately be responsible for any funding have had the opportunity to discuss it.

29. The representative of Denmark supported the proposal for paragraph 8 as contained in document A/C.3/43/WG.I/CRP.5. He suggested that having States Parties fund the proposed Committee would not necessarily solve any financial problems which it may face. He stated that it was up to the Working Group to decide on the funding of the proposed Committee.

30. The representative of Greece supported the proposal for paragraph 8 as contained in document A/C.3/43/WG.I/CRP.5 so that the United Nations could be responsible for funding the proposed Committee.

31. The representative of Italy indicated that adopting paragraph 8 as proposed in document A/C.3/43/WG.I/CRP.5 would not decide the funding of the proposed Committee as the General Assembly would still be free to indicate that the United Nations would only provide funding on the basis of a special fund set up for that purpose. He indicated that the supervisory role of the Committee could not be effectively carried out if the Committee was dependent on the wishes of particular States.

32. The representative of the United States indicated that he could not support the proposal for paragraph 8 as contained in document A/C.3/43/WG.I/CRP.5 because if it was decided that States Parties should be responsible for funding the Committee it would be up to them to decide on the terms and conditions that members of the Committee would receive emoluments.

33. After some discussion the Working Group decided to postpone consideration of paragraph 8.

Paragraph 9

34. At the 9th meeting on 3 October 1988, the Working Group adopted the text for paragraph 9 of article 70 on second reading, as contained in document A/C.3/43/WG.I/CRP.5, reading as follows:

9. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.
