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## DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS

### AND MEASURES OF IMPLEMENTATION

#### Memorandum presented by Israel

1. The delegation of Israel has presented to the Committee a draft resolution on the drafting and implementation of the International Covenant on Human Rights (document A/C.3/L.193). The purpose of the present memorandum is to give a concise account of the considerations which led to the preparation of that resolution.
2. The aim of the Israel delegation -- as no doubt of most delegations -- is to contribute to the effective recognition and guarantee of human rights in all countries under international public law.
3. The Israel delegation does not harbour the illusion that human rights will be instantly respected throughout the world merely because an international covenant has been drafted and signed. Human rights, though partially recognized and implemented in a number of countries, have mostly still to be put into practice. That will be done only if the international community persistently desires that it shall, and resolutely supports what may be called the human rights movement, which must proceed tenaciously from one success to the next.
4. The time for declarations has passed. In this respect 10 December 1948 marked a decisive turning-point in the history of human rights. The General Assembly is now preparing an international covenant on human rights. That covenant must represent an advance, a step forward from the declaration of 1948. To make that step real the covenant must not only provide for an undertaking by States to respect human rights within their frontiers, but also establish an international procedure for giving effect to those rights.

5. To the Israel delegation such an international procedure seems vital to the further development of the international human rights movement, for it would constitute an organic link indispensable for that purpose, between all the members of the international society.

6. During the Committee's discussions the Israel delegation has had occasion to express its regret that the representatives of States Members have been divided between supporters of a single covenant and supporters of two covenants, one for civil and political rights and the other for economic, social and cultural rights. The Israel delegation considers that the only justifiable divergence of view is that existing between delegations accepting an international procedure for implementation, and delegations which have not yet decided to do so.

7. The States which accept the principle of an international procedure for implementation thereby agree to a certain amount of international supervision concerning human rights. It is however doubtful whether, in spite of all their goodwill, those States would sign a covenant containing obligations which they could not fulfil in practice, for they would then find any international supervision intolerable.

8. An acceptable international procedure for implementation must therefore be adaptable to those possibilities. At the same time it must not be static, but flexible enough to keep up with the progressive development of human rights in the various States.

9. The first question should be how the government of a given State would have to relate the problem of the implementation of human rights to its own domestic law. A government need not ask whether a right is political or cultural, civil or economic. In the last resort, it will divide all human rights, whatever their nature, into the following two categories:

- Category 1. Rights which are capable of effectively becoming a reality through immediate legislative or administrative action on the part of each State and which may be expected to be enforced without delay by the judicial or administrative processes of domestic law. (This category includes the rights which are already in existence by virtue of action as aforesaid taken prior to the signature of the Covenant);

Category 2. Rights which, although recognized in principle, cannot effectively come into existence in law until after the execution of programmes, including economic and social programmes, which may vary in duration and feasibility.

For convenience of exposition the rights in Category 1 will be provisionally described as "legal rights" and the rights in Category 2 as "programme rights".

10. These considerations of domestic law directly affect measures for implementing human rights by international procedure. The procedure of implementation to be contemplated for the human rights in category 2 must differ from that applicable to the rights in Category 1. In analysing the draft covenant prepared by the Commission on Human Rights the Israel delegation has already had occasion to affirm that, while it considered the system of periodic reports to be applicable to all human rights without distinction, the Human Rights Committee on the other hand should have to deal only with violations of the human rights in Category 1.

11. The human rights which deserve to be assigned to one or other of Categories 1 and 2 are not, however, the same for all States. Between the various States there are notorious differences of development and structure. What is a "legal right" for some may well be no more than a "programme right" for others. Various examples may be noted in compulsory and free education, social security, judicial organization and so forth. It is also necessary, therefore, to provide a system of assigning human rights to the two categories sufficiently flexible to allow for that undeniable diversity.

12. The Israel delegation has therefore concluded that the decision ought to be made that States signing the Covenant on Human Rights shall announce on signature or ratification of the Covenant, each insofar as it is concerned, how the civil, civic, political, social or cultural rights recognized by the Covenant are in effect distributed between categories 1 and 2, in their countries and, accordingly, to what extent they will be subject to one or other of the procedures of implementation. Each of the signatory States should also repeat its statement at set intervals, so as to proclaim and bring under sanction the progress it has made in human rights.

13. The machinery just described would in no way affect the integrity of the Covenant on Human Rights. These rights could still be classified in the Covenant as they have been hitherto -- into civil and political rights and economic, social and cultural rights. Such a classification is indeed already traditional, based on the nature of the rights, and of undeniable scientific importance. Furthermore, States signing the Covenant would thereby and without distinction recognize all the rights proclaimed in the Covenant and undertake to enact as soon as possible the domestic legislative or administrative measures necessary to convert them into a reality.
14. On the principles that have just been described the authors of the Covenant might provide in it for the most varied procedures. The delegation of Israel would suggest, for example, an obligation to include certain rights, such as the right to non-discrimination, the right to life and integrity of person, and the right to the suppression of slavery and bondage, in Category 1. Provision might also be made for reciprocity in the use of the right to submit complaints to the Human Rights Committee.
15. It would be unreasonable to expect to make provision in advance and at one time for all the means of implementation based on the broad lines of the draft resolution.
16. To the Israel delegation the directions contained in the resolution it has presented seem helpful to the preparation of a covenant on human rights capable of becoming an international reality, that is to say of being signed and applied by a large number of States.