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COMMISSION ON HUMAN RIGHTS

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Item 3(b) of the Agenda

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS
AND MEASURES FOR IMPLEMENTATION

LEBANON: DRAFT ARTICLES ON THE IMPLEMENTATION OF THE PROVISIONS ON ECONOMIC,
SOCIAL AND CULTURAL RIGHTS

Article 1

1. With a view to the implementation of the provisions of Articles to [Economic, Social and Cultural Rights] of this Covenant, there shall be set up a Committee on Economic, Social and Cultural Rights, hereinafter referred to as Committee No.2, composed of 15 members with the functions hereinafter provided. The provisions of Articles 21, 27-29, 31, 32 and 36-37 of Part III of this Covenant relating to the Human Rights Committee, together with the provisions set out below, shall govern the establishment and procedure of Committee No. 2.

2. Committee No. 2 shall be composed of nationals of the States Parties to the Covenant who shall be persons of high moral standing and of recognized experience in the fields of economic, social and cultural rights. In the election of the committee consideration shall be given, in addition to equitable geographical distribution of membership, and to the representation of the main forms of civilization, to the necessity of providing in the membership of the

committee a balanced representation of experience in all the various fields covered by Articles [on economic, social and cultural rights]

3. The members of Committee No. 2 shall be elected from a list of persons possessing the qualifications prescribed in paragraph 2 and specially nominated for that purpose by the States Parties to the Covenant.

4. Each State shall nominate at least four and not more than eight persons. These persons may be nationals of the nominating State or of any other State Party to the Covenant.

5. Nominations shall remain valid until new nominations are made for the purpose of the next election under paragraph 8. A person shall be eligible to be renominated.

6. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all persons nominated in accordance with the above-stated provisions and submit it to the Economic and Social Council and to the States Parties to the Covenant.

7. Committee No. 2 shall be elected from the list provided for in paragraph 6 by the Economic and Social Council. No more than one national of any State may be a member of the Committee at any time.

8. The members of Committee No. 2 shall be elected for a term of five years and be eligible for re-election. However, the terms of eight of the members elected at the first election shall expire at the end of two years. Immediately after the first election the names of the members whose terms expire at the end of the initial period of two years shall be chosen by lot by the President of the Economic and Social Council.

9. (i) Vacancies shall be filled by election and Article 21 of Part III of this Covenant together with paragraphs 6 and 7 of the present Article shall apply.

(ii) A member of Committee No. 2 elected to fill a vacancy shall hold office for the remainder of his predecessor's term.

10. The Secretary and Assistant Secretary of the Human Rights Committee, appointed under Article 30 of Part III of the Covenant, shall also be Secretary and Assistant Secretary respectively of Committee No. 2.

11. Committee No. 2 shall establish its own rules of procedure, but these rules shall provide that:

- (a) Ten members shall constitute a quorum;
- (b) The work of the Committee shall proceed by a majority vote of the members present; in the event of an equality of votes the Chairman shall have a casting vote;
- (c) The Committee shall hold its meetings in closed session.

12. (i) After its initial meeting the Committee shall meet at such times as it deems necessary, and shall be convened by its Chairman or at the request of not less than eight of its members.

(ii) The Committee shall meet at the permanent headquarters of the United Nations or at Geneva.

Article 2

1. The States Parties to the present Covenant undertake to inform the Secretary-General of the United Nations, at intervals as hereinafter provided, of the measures which they have taken in pursuance of their obligations under Articles /dealing with economic, social and cultural rights/ of this Covenant.

2. The reports which States Parties shall make to the Secretary-General in accordance with the preceding paragraph shall be made in the following manner:

- a) reports upon action taken in pursuance of their obligations under Articles shall be made within the first year after the coming into force of the present Covenant;
- b) reports upon action taken in pursuance of their obligations under Articles shall be made within the second year after the coming into force of the present Covenant;

- c) reports upon action taken in pursuance of their obligations under Articles shall be made within the third year after the coming into force of the present Covenant;
- d) reports of each of the three types described above shall thereafter be made within the third year after the making of the first reports by States..

3. In their reports made in accordance with paragraphs 1 and 2 of the present Article the States Parties may [or shall] include statements relating to factors which have affected adversely the degree to which they have been able to protect the human rights under review during the period in question.

4. In making their reports, the States Parties undertake to use as a guide such Report Form as the Economic and Social Council of the United Nations may draft.

5. The States Parties, in making reports in accordance with paragraphs 1 and 2 of the present Article, shall state:

- a) whether the necessary steps were taken by way of provisions contained in a constitution, legislative enactment or administrative action;
- b) whether the necessary steps were taken by the central governmental authorities, by the constituent States provinces or cantons of a Federal State, by local authorities or by non-governmental bodies.

6. Where relevant information has already previously been furnished to the United Nations or to any Specialized Agency, the action required by paragraph 1 of the present Article may take the form, where desired by the State Party concerned, of a precise reference to the information so furnished.

Article 3

The Secretary-General shall submit to Committee No. 2 the reports forwarded to him in accordance with Article 2, together with whatever observations upon them he may think fit to make.

Article 4

1. Committee No. 2 shall examine the materials which shall have been submitted to it as provided for in Article 3 and shall form an opinion, in the light of the prevailing circumstances as they exist from time to time and from place to place, whether each of the States Parties has made adequate progress in pursuance of its obligations under Articles dealing with economic, social and cultural rights of this Covenant.

2. In forming their conclusions, in accordance with the preceding paragraph, on the progress made by each State Party, Committee No. 2 shall examine that progress in the light of the following circumstances, whether as described by the State Party in accordance with Article 2, para. 3, or as made known to the Committee by its Secretariat or by any non-governmental or intergovernmental organization or as otherwise known to the Committee:

(a) such basic material resources, national and local of the State Party concerned as would normally affect the degree of protection of human rights of an economic, social or cultural character;

(b) any exceptional circumstance, such as a state of emergency or public disaster, which might justifiably give rise to a temporary diminution of the protection afforded to human rights of an economic, social or cultural character;

(c) the distribution of population in remoter areas of the territory of the State Party concerned;

(d) any constitutional difficulties which might justifiably impede the full carrying out by a State Party of its obligations under the present Covenant;

(e) any other relevant factors

(f) the progress made in relation to the same right by other States parties occupying a similar position as regards basic material resources and other relevant circumstances.

(g) any elaboration of the material content of the rights set out in Articles dealing with economic, social and cultural rights of the present Covenant, or of means of protecting them, which is provided by any Convention, Recommendation, Resolution or other instrument of the United Nations or any Specialized Agency.

3. In the event of the Committee's concluding that a State Party has not made a report sufficient to enable it to decide whether that State Party has made adequate progress in respect of one or more of the rights which are the subject matter of the present covenant it may request that State Party to furnish it with additional relevant information.

4. In the event of a State Party's failing to report completely in accordance with its obligations under Article 2, even after a lapse of six months from receiving a request in accordance with the preceding paragraph of the present Article, the Committee shall, using all profitable channels of enquiry, attempt to ascertain what is the true state of affairs as regards the situation on which adequate information has not been furnished by the State Party concerned.

5. In the event of the Committee's concluding that a State Party has not made adequate progress in respect of one or more of the rights which are the subject-matter of the present Covenant it may arrive at an opinion as to the type of technical assistance which, in its opinion, could profitably be accorded to the State Party concerned with a view to aiding it in taking steps to protect to a higher degree the right or rights in question.

Article 5

Committee No. 2 may arrive at opinions regarding the amendment of this Covenant or of the Report Form referred to in Article 2, para. 4.

Article 6

1. Committee No. 2 shall report to the Commission on Human Rights of the United Nations upon:

- (a) its opinions arrived at under Article 4, paragraph 1;
- (b) any opinions arrived at under Article 4, paragraph 5;
- (c) Any opinions arrived at under Article 5.

2. In rendering its report in respect of paragraph 1 (a) of this Article Committee No. 2 shall present its material in such a way that it is divided primarily according to the various rights in question.

Article 7

1. The Commission on Human Rights shall examine the documentation furnished to it under the preceding Article and shall report thereon to the Economic and Social Council of the United Nations.

2. As a measure preparatory to this examination and reporting, any State Party, whether a member of the United Nations or not, which is not a member of the Commission on Human Rights shall have the right to furnish that body with relevant information, additional to that already considered by the Committee, concerning its own fulfilment of its obligations under Articles [dealing with economic, social and cultural rights] of the present Covenant.

Article 8

1. The Economic and Social Council shall examine the report furnished to it by the Commission on Human Rights under the previous article and may:

(a) recommend that the Secretary-General or appropriate Specialized Agency or Agencies, within their capacities and acting, where appropriate, through the Technical Assistance Board, should provide technical assistance to parties to the Covenant;

(b) transmit relevant parts of the report to the Specialized Agencies for their comments, and request them to furnish their comments thereon within a year of receipt thereof.

2. The Economic and Social Council may take action of the types envisaged in paragraphs 1 (a) of the present Article in relation to any matter which has been made the subject of the procedure laid down in paragraph 1 (b) thereof.

Article 9

In respect of such technical assistance as might be offered them under the present Covenant, the States Parties undertake, mutatis mutandis, to fulfil the provisions appearing under the heading Participation of requesting governments in Annex I (Observations and Guiding Principles) of resolution 222 (IX)A of the Economic and Social Council on the Expanded Programme of Technical Assistance of Economic Development of Under-Developed Countries.⁽¹⁾

(1) These provisions read as follows:

"Participation of requesting governments

The requesting governments should be expected to agree:

1. To facilitate the activities requested from the participating organizations by assisting them to obtain the necessary information about the problems on which they have been asked to help, such information to be limited strictly to questions directly related to the concrete requests for technical assistance; and, whenever appropriate, to facilitate their contacts with individuals and groups, in addition to government agencies, concerned with the same or related problems;
2. To give full and prompt consideration to the technical advice they receive as a result of their co-operation with the participating organizations in response to the requests they have initiated;
3. To undertake to maintain or set up as soon as practicable such governmental co-ordination machinery as may be needed to ensure that their own technical, natural and financial resources are mobilized, canalized and utilized in the interest of economic development designed to improve the standard of living of their peoples and through which the effective use of any major international technical assistance resources could be assured;
4. Normally to assume responsibility for a substantial part of the costs of technical services with which they are provided, at least that part which can be paid in their own currencies;
5. To undertake the sustained efforts required for economic development, including continuing support and progressive assumption of financial responsibility for the administration of projects initiated at their request under international auspices;
6. To publish information or provide for study and analysis material suitable for publication regarding the results of the technical assistance rendered and the experience derived therefrom, so that it may be of value to other countries and to the international organizations rendering technical assistance;
7. To inform the participating organizations, whenever technical assistance is requested, of all assistance which they are already receiving or requesting from other sources in the same field of development;
8. To give publicity to the programme within their countries."

Article 10

1. Unless otherwise decided by the Commission on Human Rights or by the Economic and Social Council, the Secretary-General of the United Nations shall arrange for the publication of:

- (i) reports made by States Parties under Article 2;
- (ii) the report of Committee No. 2 drawn up under Article 6;
- (iii) the report of the Commission on Human Rights drawn up under Article 7;
- (iv) all final decisions reached by the Economic and Social Council under Article 8.