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COMMISSION ON HUMAN RIGHTS
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Agenda item 4

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS
AND MEASURES OF IMPLEMENTATION

Observations submitted by Member States on the Proposed Covenant on
Economic, Social and Cultural Rights in pursuance of resolution
513 (VI) of the General Assembly

Union of South Africa

(Letter dated 10 June 1952)

I have the honour to state that the Union Government have now had an opportunity of considering reports received on the discussions on human rights at the last session of the General Assembly including, inter alia, your memoranda E/CN.4/528/Add.1 of 20 March 1952, and E/CN.4/650 of 10 March 1952.

I have been instructed to communicate certain views they have formulated on the subject.

The discussions in the General Assembly and the various comments and amendments submitted by Governments of Member States continue, in the Union Government's view, to provide evidence of the existence of a wide variety and variation of opinion both as to the precise wording which should be used in the formulation of a particular article and in regard to which rights should or should not be included in a covenant or covenants on human rights. The course of the further discussion of this problem in the last twelve months has, in the Union Government's view, re-emphasized the opinions expressed in my letter No. 11/4/3 of 13 February 1951 to you, and reiterated in the further communication I addressed to you on 8 August 1951. Member States are in many cases concerned to ensure that the precise formulation of a human right is such as will cover their own particular circumstances and the difficulties encountered in establishing a text which is mutually acceptable to all concerned underline

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the importance, previously pleaded, of including a provision to permit of a State acceding to a covenant with reservations in respect of particular articles. The Union Government have accordingly been glad to note that the General Assembly, in its resolution of 5 February 1952, recommended the inclusion of one or more clauses on the admissibility of reservations. The Union Government trust that this is but a first step to recognition of the need for a reservations clause so framed as to facilitate the ratification of the largest number of articles by the largest number of States, bearing in mind that if a State is not permitted to accede to a Covenant with reservations in respect of one or two articles, it will in practice not be able to accede to the Covenant at all.

The Union Government also welcome the decision of the General Assembly to recommend that separate covenants be prepared for civil and political rights and for economic, social and cultural rights respectively. The Union Government have always questioned the desirability and practicability of including the latter in an international instrument designed to provide for their universal enforcement. The Union Government have consistently held the view that it is necessary to draw a clear distinction between those rights which are susceptible of enforcement by international action and those rights the implementation of which cannot be so enforced, but the observance of which can be encouraged and promoted by some form of freely accepted international moral suasion. While the vast majority of the articles contained in the proposed Covenant on Economic, Social and Cultural Rights are unexceptionable to the Union Government as statements of ultimate objectives, the Union Government do not regard them as fundamental human rights falling as such within the purview of the Charter, but rather as matters of essentially domestic concern and therefore outside the sphere of international action unless individual States are freely willing to surrender that measure of sovereignty which would be implicit in acceptance of the degree of supervision provided for in part V of the original combined covenant. For this reason, too, the Union Government welcome the decision to separate this category of rights from the category of civil and political rights.
