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DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS
AND MEASURES OF IMPLEMENTATION

Note by the Secretary-General

I. Introduction

1. The Economic and Social Council by resolution 440 A (XIV) requested the Commission on Human Rights to complete its work on the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights at its ninth session and to submit them simultaneously to the Council.

2. At its eighth session the Commission on Human Rights considered (E/2256) the draft Covenants in the light of resolutions 543 - 549 (VI) of the General Assembly and resolutions 384 (XIII) and 415 (S-1) of the Economic and Social Council. It revised the provisions on economic, social and cultural rights and on civil and political rights; it drafted an article on the right of self-determination. The Commission did not have time to consider:

- (a) additional rights of a civil and political nature;
- (b) the existing articles as well as additional proposals on measures of implementation; and
- (c) final clauses.

II. Provisions on economic, social and cultural rights

3. The draft Covenant on Economic, Social and Cultural Rights, as prepared by the Commission at its eighth session (E/2256, Annex I, section A), consists of a Preamble and three parts: Part I contains an article on self-determination, Part II deals with general obligations of States Parties to the Covenant and Part III sets forth certain economic, social and cultural rights.

4. Attention is drawn to document E/CN.4/673 which is a memorandum by the Secretary-General on economic, social and cultural rights, and in which certain suggestions of a linguistic character are made and a few matters of substance are raised. Reference may also be made to documents E/CN.4/654 and E/CN.4/654/Add.1-9 and E/CN.4/655 and E/CN.4/655/Add.1-4, which were submitted to the eighth session of the Commission and which contained observations of Member States and specialized agencies on the proposed Covenant on Economic, Social and Cultural Rights.

III. Provisions on civil and political rights

5. In accordance with resolution 421 B (V) of the General Assembly the Commission at its eighth session revised the first eighteen articles but postponed the consideration of additional rights of a civil or political nature. The draft Covenant on Civil and Political Rights, like the draft Covenant on Economic, Social and Cultural Rights, includes a Preamble and three parts: Part I contains an article on self-determination, Part II deals with general obligations of the States Parties to the Covenant and Part III sets forth certain civil and political rights (E/2256, Annex I, section B).

6. Attention is drawn to document E/CN.4/674 which is a memorandum by the Secretary-General on civil and political rights, and is divided into two parts: (i) proposals on additional rights and (ii) comments on existing articles. Reference may also be made to the earlier comments presented to the Commission in documents E/CN.4/528 and E/CN.4/528/Add.1.

IV. Measures of implementation

7. In resolution 421 F(V) the General Assembly requested the Commission to consider provisions for the receipt and examination of petitions from individuals and organizations with respect to alleged violations of the Covenant and transmitted a number of proposals on implementation to the Commission for its consideration. By resolution 547 (VI) the Assembly transmitted a number of proposals as "additional basic working papers" (see E/2256, Annex III, section C). Furthermore the Assembly in resolution 543 (VI) requested the Commission to include as many similar provisions as possible in the two Covenants, particularly insofar as reports to be submitted by States are concerned.

8. At the seventh session of the Commission the United States submitted a draft protocol on petitions from individuals and non-governmental organizations and Uruguay presented a draft protocol relating to the establishment of an Office of the United Nations High Commissioner (Attorney-General) for Human Rights (E/2256, Annex III, sections A and B).

9. The Commission at its eighth session was not able to examine the existing articles on measures of implementation (E/2256, Annex I, section D), nor to consider the instructions of the General Assembly and the various additional proposals.

10. Attention is drawn to document E/CN.4/675 in which the Secretary-General presents observations on a number of substantive questions and editorial matters concerning the existing articles on measures of implementation (articles 33-59 on the Human Rights Committee and articles 60-69 on periodic reports on human rights). Documents E/CN.4/530 and E/CN.4/530/Add.1 contain an account of the proceedings at the various sessions of the General Assembly and the Economic and Social Council and were distributed to the Commission at previous sessions.

V. Final Clauses

11. Article 70 contains provisions concerning signature, ratification, accession and the date of the entry into force of the Covenants. Article 71 is to deal with the question of federal States. Article 72 is to deal with the territorial application of the Covenants. Article 73 contains provisions concerning amendments.

12. Attention is drawn to document E/CN.4/678 which contains comments by the Secretary-General on the final clauses of the draft Covenants.

13. Question of reservations. By resolution 546 (VI) the General Assembly has requested the Commission to prepare for inclusion in the Covenants one or more clauses relating to the admissibility or non-admissibility of reservations and the effect to be attributed to them. Document E/CN.4/677 contains, for the information of the Commission, certain passages from the report of the third session of the International Law Commission dealing with the question of reservations and a summary of the proceedings of the General Assembly and of the Commission on Human Rights in respect of reservations to the draft Covenant on Human Rights.

14. Federal State clause. The Economic and Social Council in resolution 304 A (XIII) asked the Commission to proceed with the study of a federal State article as recommended by General Assembly resolution 421 C (V). Proposals and comments on the federal State article will be found in Annex II, section B of the report of the eighth session of the Commission (E/2256). Reports by the Secretary-General summarizing the work of the United Nations bodies on the federal clause will be found in E/1771, A/CONF.2/21 and E/CN.4/651.

15. Territorial application clause. In accordance with a decision of the eighth session of the Commission (E/2256, para. 98), Annex I, section C of the report of the eighth session of the Commission (E/2256) reproduces the text of the article on the territorial application of the International Covenants on Human Rights adopted by the General Assembly in resolution 422 (V) and included as article 72 of the draft Covenant prepared by the Commission at its seventh session.
