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UNITED NATIONS DECADE FOR WOMEN: EQUALITY, DEVELOPMENT AND PEACE

Draft Convention on the Elimination of
 Discrimination against Women

Report of the Secretary-General

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
I. INTRODUCTION	1 - 7	3
II. GENERAL OBSERVATIONS ON THE DRAFT CONVENTION, THE TITLE AND THE PREAMBLE	8 - 19	4
III. GENERAL PROVISIONS	20 - 51	7
IV. POLITICAL RIGHTS	52 - 67	11
V. SOCIAL AND ECONOMIC RIGHTS	68 - 120	13
VI. CIVIL AND FAMILY RIGHTS	121 - 137	19
VII. FINAL PROVISIONS	138 - 158	21

* A/32/150.

CONTENTS (continued)

ANNEXES

- I. Amendments and new versions proposed to the draft Convention
- II. Resolution adopted by the National Commission on the Role of Filipino Women with respect to the Draft Convention on the Elimination of Discrimination against Women
- III. Communication dated 15 March 1977 from the Director-General of the International Labour Office addressed to the Secretary-General of the United Nations
- IV. Draft Convention on the Elimination of Discrimination against Women

I. INTRODUCTION

1. In its resolution 3521 (XXX) of 15 December 1975, the General Assembly requested the Commission on the Status of Women to complete, in 1976, the elaboration of the draft Convention on the Elimination of Discrimination against Women.
2. In accordance with that request, the Commission on the Status of Women completed the draft Convention on the Elimination of Discrimination against Women at its resumed twenty-sixth session in December 1976. The draft Convention was submitted to the Economic and Social Council at its sixty-second session which, at its 2058th plenary meeting on 12 May 1977, adopted resolution 2058 (LXII) on the subject.
3. In paragraph 2 of that resolution, the Council invited Member States and the specialized agencies concerned to present their comments on the draft Convention as soon as possible before 15 July 1977, so that they could be transmitted by the Secretary-General to the General Assembly well in advance of its thirty-second session.
4. In paragraph 4, the Council recommended that the General Assembly should take up consideration of the draft Convention, in the light of comments received, as a matter of urgency at the outset of its thirty-second session, with a view to the adoption of the draft Convention at that session.
5. As requested, the Secretary-General has prepared the present report paper on the basis of the replies received from Governments and specialized agencies. As at 23 August 1977, replies had been received from Governments of the following 15 Member States: 1/ Austria, Bahrain, Belgium, Denmark, El Salvador, Finland, German Democratic Republic, Germany, Federal Republic of, Japan, Netherlands, New Zealand, Philippines, Portugal, Union of Soviet Socialist Republics and United States of America. The reply of the Philippines contains the text of the resolution with respect to the draft Convention adopted by the National Commission on the Role of Filipino Women. Replies were also received from the International Labour Organisation, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization.
6. The report consists of an analysis of the replies received with respect to the different parts and articles of the draft Convention, general observations on the draft Convention, as well as comments concerning the title of the Convention, the preamble, general provisions, articles on political rights, social and economic rights, civil and family rights and final provisions and four annexes.
7. Further comments on the draft Convention will be issued in an addendum to the present report.

1/ The full texts of the replies are available for consultation in the Secretariat.

II. GENERAL OBSERVATIONS ON THE DRAFT CONVENTION,
THE TITLE AND THE PREAMBLE

A. General observations

8. On the whole, most Governments which have sent replies commented favourably on the draft Convention, proposed by the Commission on the Status of Women. Thus, Austria, Bahrain, German Democratic Republic, Germany, Federal Republic of, El Salvador, Portugal, and the USSR stated that they generally supported the draft and fully accepted its aims. The World Health Organization also stated its full acceptance of the draft. Japan also reported that it accepted the objectives of the draft Convention. Austria and the German Democratic Republic observed that the Convention would constitute a comprehensive and complete instrument for the elimination of the continuing discrimination against women in many parts of the world. The German Democratic Republic stated that the adoption of a Convention on the Elimination of Discrimination against Women by the General Assembly at its thirty-second session and its early signing and ratification by, if possible, all States Members of the United Nations would be consistent with the triple objectives of the United Nations Decade for Women: Equality, Development and Peace and would promote and accelerate the consistent implementation of the World Plan of Action and of the Programme for the United Nations Decade for Women.

9. The Federal Republic of Germany stated that the draft Convention took into account the progress achieved in the national legislation of various countries in the field of women's rights and also on the world-wide discussion in recent years concerning equal rights for men and women; and that it also took into account social and economic developments which had changed the de facto situation of women and necessitated corresponding changes in their legal status. The Federal Republic of Germany observed that in almost all countries women were still at a disadvantage compared to men. Accordingly, the strong emphasis the draft placed on economic, social and cultural rights corresponded to the need to make improvements in the conditions of life for women, the first priority. The Federal Republic of Germany emphasized that the draft Convention was intended to commit States parties to take appropriate measures, including legislative action, to ensure that discrimination against women was eliminated. In its opinion, this limitation to a commitment having regard to the States' possibilities to create the economic, social, cultural and legal conditions for women to enjoy equal rights made it possible for all States, including those which still had substantial practical and legal difficulties to overcome, to adopt this Convention.

10. With respect to the virtues of the draft Convention, the German Democratic Republic expressed the opinion that it further specified and widened the scope of the Declaration on the Elimination of Discrimination against Women adopted by the General Assembly in 1967 (resolution 2263 (XXII) of 7 November 1967), and provided for necessary measures to be adopted by the future States parties thereto to eliminate such discrimination de facto or de jure, and that it was guided by the progressive policies already being practised in a number of countries in assuring to women equality with men and promoting their advancement. Finally, in the opinion

of the German Democratic Republic, the draft Convention contained important provisions concerning the full guaranty of the economic and social rights of women on equal terms with men.

11. Comments were presented by Finland, Japan, the Netherlands and UNESCO on the short-comings of the draft.

12. Finland observed that the draft Convention could lead to overlapping in the areas already covered by previous international instruments, such as the Convention on the Nationality of Married Women, the Convention on the Political Rights of Women and the International Covenants on Human Rights. Finland, however, recognized that the draft Convention might serve a useful purpose by codifying and supplementing the existing provisions and further developing international protection of women by covering areas which had not yet been made the subject of international regulation, such as those concerning the legal position of women in marriage and their civil, legal and procedural capacity. That opinion was shared by the Federal Republic of Germany. It particularly welcomed the inclusion of private law and family law provisions in the draft, since in the past the adopted legal instruments did not concern this field.

13. The Netherlands remarked that in the draft Convention, discrimination against women was largely associated with "inequality with men", while full de facto emancipation of women required more and different measures than the granting to women of the right to develop in the same way and up to the same level as men. The Netherlands expressed the hope that while being fully aware of the necessity of achieving actual short-term and medium-term improvements in the living and working conditions of the majority of women in the world, which was the draft Convention's immediate aim, the above-mentioned short-comings would be gradually overcome both in implementing the Convention and in further elaborating the issue through legislative and other measures as well as - and above all - in practice.

14. In this respect, UNESCO observed that, in general, the draft Convention did not sufficiently underline the fact that discrimination against women should be banished totally, whether its origin be a situation created or a measure taken by the State or other public body, or rather by another private individual or a corporate body.

15. As far as the implementation of the Convention was concerned, Portugal believed that it might face a number of practical difficulties. On the one hand, in the opinion of Portugal, the draft could be somewhat more concise as a number of detailed provisions contained therein unquestionably called for complex implementing procedures at the international level. On the other hand, a number of countries would have to introduce considerable changes in their national legislation before they could ratify the instrument in its present form. This point of view was shared by Japan which stated that it would be more appropriate to ensure the universality of the convention based on the largest number of countries ratifying it as well as its effectiveness; that such provisions should only lay down the principle of elimination of discrimination against women and retain sufficient flexibility, so that concrete steps for its achievement might be left to domestic measures to be taken by individual State parties.

B. Title

16. As regards the title of the draft Convention, Austria expressed the opinion that it did not correspond with its contents as the term "discrimination" in article 1 of the draft was limited to human rights and fundamental freedoms. However, according to the tenor of the Convention, that term, in the opinion of Austria, was obviously understood in a considerably wider sense, for equality was required not only in the political, economic, social, cultural and all other fields of public life but also in other respects and the draft required a number of positive measures going beyond a mere ban on discrimination and even beyond the application of the rule of equality.

C. Preamble

17. The German Democratic Republic observed that the preamble rightly points out that the strengthening of world peace, especially by concrete steps toward disarmament, as well as the elimination of racism and colonialism in all their forms and respect of the right of peoples to self-determination were vital in achieving full equality for women, and that all prerequisites should be created to secure the participation of women to the same extent as men in the political, economic and cultural development of their countries.

18. An opposite opinion was expressed by the Netherlands and Portugal. The Netherlands believed that the issues mentioned in paragraph 8 should not exclusively be related to the rights of women as they concerned all human beings. Therefore, the Netherlands offered an amendment which was aimed at rewording paragraph 8 (see annex I). Portugal felt that paragraph 8 dealt with matters which were alien to the aims and objectives of the draft Convention and therefore proposed its deletion. Amendments to the Preamble were also offered by New Zealand, USSR and UNESCO (ibid.).

D. Structure of the Convention

19. As far as the structure of the Convention was concerned, Denmark expressed the opinion that the Convention might well be divided into four parts, with titles omitted, and organized as follows:

Part I. Articles 1 to 7 and article 16

Part II. Articles 8 to 15

Part III. Article 19

Part IV. Articles 17, 20, the adopted additional article on reservations, articles 18, 21, 22.

III. GENERAL PROVISIONS

Article 1

20. Austria observed that it could be seen readily as to why the term "discrimination" was limited to human rights and fundamental freedoms and that it might be appropriate to refer to the admissibility of a positive distinction (cf. article 4, para. 2, and article 16).
21. Portugal commenting on this article, found it regrettable that the word "preference" was not included in the second line of the text after the words "distinction, exclusion or restriction"; in the opinion of Portugal, the argument whereby inclusion of this word could make adequate protection of maternity impossible was hardly justifiable, for the following reasons: (a) article 4, paragraph 2, and article 11, paragraph 2, would eliminate such a risk; (b) preferential rights were granted to women under certain circumstances in article 4, paragraph 1, and the complete denial of such rights could therefore not be argued.
22. The Netherlands and UNESCO offer amendments to article 1 (ibid.).

Article 2

23. Some shortcomings of the article were reported by Finland, the German Democratic Republic and Portugal.
24. Finland observed that paragraphs of article 2 were perhaps somewhat repetitious, i.e. paragraph (a) comprehended in substance practically everything that was stated in paragraphs (b) to (f); and it also covered the content of article 6.
25. The German Democratic Republic felt that the article gave the impression as though the purpose of the Convention was to eliminate discrimination against either of the sexes.
26. Portugal had no objection to any of the provisions of the article; it stated, however, that the implementation of one of these provisions might be considerably delayed by the need to enact detailed national legislation.
27. The USSR offered an amendment to the introductory part of article 2 (ibid.).

Article 2, paragraph (a)

28. Amendments to paragraph (a) were submitted by Austria and UNESCO (ibid.).

Article 2, paragraph (b)

29. UNESCO observed that it was important that both public and private authorities should be considered in this respect.

/...

30. Amendments to paragraph (b) were submitted by Austria, Japan and UNESCO (ibid.).

Article 2, paragraph (c)

31. Japan proposed the deletion of this paragraph, believing that the purpose of the paragraph overlapped with that of article 2 (a) and (b).

Article 2, paragraph (e)

32. Amendments to paragraph (e) were submitted by New Zealand and the United States of America (see annex I).

Article 2, paragraph (f)

33. Austria observed that the term "customs and practices" implied a high degree of vagueness.

34. An amendment to paragraph (f) was submitted by UNESCO (ibid.).

Article 3

35. There were no comments on this article.

Article 4

36. There were two general observations with respect to this article.

37. Austria observed that full de jure equality of men and women need not necessarily imply an improvement in the position of women (ban on night work and heavy work).

38. On the other hand, the German Democratic Republic remarked that article 4, which encouraged the adoption of temporary special measures for the advancement of women, should, in addition, include provisions for the adoption of industrial safety measures geared to the physiological particularities of women.

Article 4, paragraph 1

39. The United States of America objected to this paragraph and proposed its deletion on the ground that the constitutionality of affirmative action was in doubt. The United States added that any reference to affirmative action could make ratification of the Convention by the United States very difficult if the Supreme Court ultimately decided that affirmative action was unconstitutional.

Article 4, paragraph 2

40. Portugal stated that though it had no objection to article 4, paragraph 2 appeared to be redundant in view of the detailed provisions contained in article 11, paragraph 2.

41. An amendment to paragraph 2 was submitted by UNESCO (ibid.).

Article 5

42. Austria expressed the opinion that this article seemed rather to be of a programmatic nature so that the question arose whether the objectives of this article could be achieved under a Convention. Austria suggested further that this article might be worded more concisely and proposed a new version of article 5 (ibid.).

43. The German Democratic Republic believed that this article gave the impression that the purpose of the Convention was to eliminate discrimination against either sex. The German Democratic Republic observed further that this article, which called for the adoption of national measures to eliminate prejudices based on the idea of the inferiority of women, failed to make adequate provisions for the responsibility of the State and of society for protecting maternity. Therefore, the German Democratic Republic suggested that the article should include a formulation stating that the cause of protecting maternity was a matter of concern for, and a responsibility of, society as a whole.

Article 5, paragraph 1

44. Comments were not available.

Article 5, paragraph 2

45. Austria remarked that this paragraph contained a rule of a programmatic nature, whose practicability appeared questionable, at least in the near future.

46. The United States of America proposed changing the word "motherhood" to "parenthood" on the grounds that the present terminology was discriminatory since it perpetuated discrimination against men. Further, the United States indicated that it would be unacceptable under its law.

47. UNESCO proposed an amendment to paragraph 2 (see annex I).

Article 6

48. New Zealand raised the question whether this article, as it is presently worded, applied to federal States and unitary States as well.

49. Portugal found this article redundant. Japan stipulated that if the purpose of this article was, inter alia, to repeal such penal codes that were based upon a reasonable distinction due to differences in physical functions between men and women (for example on illegal abortion), then it was inappropriate.

Article 7

50. Austria drew attention to a certain parallelism of this rule with the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

51. Portugal, while agreeing with this article, regretted that the Belgian proposal to include condemnation of "attacks on the physical integrity of women" had not been retained.

IV. POLITICAL RIGHTS

52. UNESCO observed that it would be appropriate for the title of this chapter to encompass both "Civil and Political Rights" in keeping with the presentation of the International Covenants, and for the chapter to comprise of the present articles 14, 15, 8 and 9, in that order. In UNESCO's opinion the expression "family rights" was amply represented by the term "civil rights".

Article 8

53. Austria observed that the rule, contained in this article was parallel with the Convention on the Political Rights of Women.

Article 8, paragraph (a)

54. An amendment to this paragraph was submitted by UNESCO (see annex I).

Article 8, paragraph (b)

55. Austria stated that it should not be overlooked that the present formulation would provide the grounds for drafting women for military service. Austria had made a reservation to a similar rule in the Convention on the Political Rights of Women and would also consider such a reservation in the present case. Furthermore, Austria proposed an amendment to this paragraph (ibid.). Another amendment was submitted by the USSR (ibid.).

Article 8, paragraph (d)

56. Making a general observation, Finland pointed out that non-governmental organizations and associations were autonomous in their own scope of function and that the eligibility to their membership was usually determined by their own statutes. Finland noted, however, that State authorities may refuse to approve the statutes which were discriminatory in any way, against either sex.

Article 9

57. Austria raised a question as to whether a convention on the Elimination of Discrimination against Women should contain rules on nationality because in this matter there existed generally very exact national provisions.

58. The German Democratic Republic felt that this article gave the impression that the purpose of the Convention was to eliminate discrimination against either of the sexes.

Article 9, paragraph 1

59. There were no comments on this paragraph.

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Article 9, paragraph 2

60. Austria and the German Democratic Republic expressed the opinion that a convention designed to eliminate discrimination against women, should, especially in the context of measures to prevent such discrimination, refer exclusively to women.

61. The USSR objected to this paragraph for the same reason, specifying that the question of the nationality of married women was resolved in the Convention on the Nationality of Married Women and therefore there was no need to include a similar rule for men in an instrument aimed at eliminating discrimination against women.

62. The United States of America reported that at present its laws did not comply with this paragraph. It added, however, that the insertion of the phrase "States may permit" at the beginning of the paragraph would make it acceptable.

63. Austria also proposed an amendment to this paragraph (see annex I).

Article 9, paragraph 3

64. No comments were made on this paragraph.

Article 9, paragraph 4

65. According to Denmark, if the objective of this paragraph was to impose an actual duty and not to make a policy statement of basic principles, Denmark expressed reservation on the ground that strict adherence to this provision might lead to dual citizenship for children born of a marriage of mixed nationality, a situation which it preferred to avoid.

66. On the other hand, Finland found this paragraph somewhat ambiguous and liable to create difficulties of interpretation. Finland clarified that the nationality of a State was determined by the law of the State concerned, taking into consideration both the public interest of the State and the interest of the child, and therefore what actually was at stake, was the right of the child not to be left stateless under any circumstances. Finland believed that it could not be left to the discretion of the parents of different nationalities to decide upon the nationality of their children. Finland stipulated that what was perhaps meant by this provision in question was the demand that the nationality of the mother should be taken into account on an equal footing, according to the law, with that of the father in determining the nationality of the child.

67. Japan objected to paragraph 4 of article 9, explaining that this provision should be deleted, for it might bring about an increase in the number of people with dual nationality in countries that practise jus sanguinis when the father and mother have different nationalities.

V. SOCIAL AND ECONOMIC RIGHTS

68. UNESCO felt that this chapter should be amended to read "Social, cultural and economic rights" and a separate article should be included on cultural rights to follow the present article 10 (for the text of the additional article on cultural rights, see annex I).

Article 10

69. Austria was of the opinion, firstly, that this article contained a repetition of the term "discrimination" and, secondly, that a special reference might be made to school books which should present the roles of men and women in the family and in society in an unbiased manner and in accordance with the partnership pattern of behaviour.

70. The United States and WHO proposed amendments to the introductory part of article 10 (idem).

71. Portugal believed that this was precisely one of the provisions of the draft wherein obligations imposed on States Parties were spelt out in too great a detail, adding, however, that it had no objections concerning the aims of this article.

Article 10, paragraph (a)

72. Austria submitted an amendment to this paragraph (idem).

73. Finland found this paragraph too ambitious and impossible to implement in practice, since it would imply the existence of educational establishments of all categories, including universities, in rural as well as in urban areas. In the opinion of Finland, this provision should be formulated in such a way that women would have access to all educational establishments irrespective of their place of residence.

74. UNESCO proposed a new version of paragraph (a) (for the text of the amendment and the additional paragraph, see annex I).

Article 10, paragraph (b)

75. Austria observed that this rule was understood to mean that special schools for girls such as household schools should not be banned.

76. Belgium observed that it was important to remember that, in the field of education, co-education implied first of all teaching adopted to a mixed auditorium, that is, the education of relationships between the two sexes.

77. An amendment to this paragraph was proposed by Japan.

78. UNESCO proposed the addition of a new paragraph after paragraph (b) (idem).

/...

Article 10, paragraph (c)

79. Japan observed that while it was taken for granted that ensuring opportunities for co-education was desirable there was also some merit in the continuing existence of segregated schools. Therefore, if this provision, which called for the "speedy achievement of coeducation" was meant to deny the existence of segregated schools, it was not appropriate for Japan.

80. Austria proposed an amendment to this paragraph (idem).

Article 10, paragraph (e)

81. UNESCO proposed an amendment to this paragraph (idem).

Article 10, paragraph (g)

82. Austria suggested that the education referred to in this paragraph should be possible for both sexes.

83. New Zealand proposed an amendment to this paragraph (idem).

Article 11

84. Portugal, noting that this was one of the most important articles of the draft supported it whole-heartedly even though it felt that it may take quite some time before its provisions were applicable in certain countries.

85. Austria pointed out that this article contained a repetition of the term discrimination, as the comprehensive definitions were contained in articles 1 and 2. This article was understood by Austria to mean that the rights set forth therein need not be ensured at all but wherever they were insured they should be applied equally to men and women.

86. Netherlands proposed the insertion of a new paragraph in article 11 (see annex I).

Article 11, paragraph 1

87. WHO proposed that the term "married or unmarried" should be replaced by "regardless of civil status", which would exclude discrimination both against married women and women with children.

88. UNESCO was of the opinion that this paragraph should be broadened to include reference to the impact of science and technology on women. Accordingly, UNESCO proposed a new version of this paragraph (ibid.).

Article 11, paragraph 1 (b)

89. Belgium suggested that this paragraph should be revised in such a way as to make absolutely clear that vocational training and retraining on one side included education, increase in qualification and permanent training and that discrimination in the criteria for employment should be eliminated.

Article 11, paragraph 1 (c)

90. The United States of America suggested that reference to the ILO Convention should be eliminated.

Article 11, paragraph (2)

91. The United States of America found this paragraph unacceptable under the United States law, and proposed its deletion.

Article 11, paragraph 2 (a)

92. Austria was of the opinion that this rule should not only envisage the imposition of penalties but that equal results for women could also be achieved by denying legal effect to dismissals. Austria illustrated that this situation was at present in effect in Austria and had yielded excellent results.

93. Japan believed that it would be more effective, from the point of view of protection for women, to provide relief measures to ensure their right to work, rather than impose penalties for dismissal on grounds of marriage, pregnancy or maternity leave. Therefore, the words "prohibiting, subject to the imposition of penalties" should be replaced by "to eliminate by appropriate relief measures".

94. The United States of America pointed out that the provision of this paragraph went far beyond existing anti-discriminatory laws in the United States.

Article 11, paragraph 2 (b)

95. The United States of America found this paragraph unacceptable because it transferred to public expense programmes that were presently financed through private insurance.

96. Japan and UNESCO proposed amendments to this paragraph (ibid.).

Article 11, paragraph 2 (c)

97. The United States of America found this paragraph unacceptable, emphasizing that there was no restriction that would limit the free medical service to those in financial need in the United States.

98. WHO suggested the term "free and easily available health care" instead of "free medical services".

99. Austria, Japan and New Zealand submitted amendments to this paragraph (ibid.).

Article 12

100. Acceptance of this article was reported by FAO, stressing that the article was aimed at improving the status of 1,000 million women who reside in rural areas.

Article 12, paragraph (b)

101. An amendment to this paragraph was made by New Zealand (see annex I).

102. A new version of this paragraph was proposed by WHO (ibid.).

103. New Zealand suggested that the article should ensure that standards of care were as good as those available to men and should also include the idea that family planning advice should be equally available to men. With that purpose, New Zealand proposed the insertion after the word "services" of the phrase "of an equal standard to those available to men".

Article 13

104. Austria remarked that this article referred to all workers, which should actually not be done under this Convention, and that besides, other measures such as suitable arrangement of working hours, transport connexions and the granting of necessary leave for the care of close relatives who were ill might be considered in order to fulfil the objectives of paragraph 1.

105. As regards the necessity of special protection to women was concerned, opinions differed.

106. Belgium suggested that this article should be revised so that it would not justify measures which under the cover of protection might put women in the situation of professional inferiority with respect to men.

107. On the other hand, in the opinion of the German Democratic Republic, article 13 was not reflective of the legitimate demands to grant women comprehensive and more detailed social and economic rights and possibilities and was far from doing justice to the appeals made at the World Conference on the International Women's Year, held at Mexico City, and at the World Congress of the International Women's Year, held at Berlin, to improve the status of women. The German Democratic Republic observed that, as worded at present, it fell short of the generally recognized relevant norms contained in a number of international instruments and declarations of the United Nations, the International Labour Organisation and the United Nations Economic, Scientific and Cultural Organization as well as of the provisions of articles 12 and 13 of the original draft Convention (E/CN.6/574).

108. El Salvador felt that, owing to the existing differences of physical nature between men and women, it would be convenient if the Convention included a provision in accordance with which, under certain circumstances, special measures could be issued for the protection of women, so long as this did not imply discrimination against women. El Salvador specified that article 4, paragraph 2, of the draft Convention could be used as a guideline for this purpose.

109. Portugal emphasized that paragraphs 1 and 2 of this article were of particular importance. Portugal felt, however, that there may be considerable difficulty in reconciling them with paragraphs 3 and 4 of this article as they now stand.

110. This opinion was shared by Austria. Austria therefore suggested the grouping of a special rule of paragraph 3 into one paragraph, paragraph 4.

Article 13, paragraph 1

111. Austria observed that the convention designed to eliminate discrimination against women should, especially in the context of measures to prevent such discrimination, refer exclusively to women, and therefore the reference to "parents" was inappropriate.

112. The same opinion was expressed by the German Democratic Republic on the grounds that article 13 gave the impression in its paragraph 1 that its purpose was to regulate family matters generally, while the true purpose was to help women, in the interests of the development of their personality, to establish a harmonious combination of their social function as mothers and their professional, educational and political tasks.

113. The United States of America noted that, in order for it to conform to United States law, this paragraph would have to be reworded so that the establishment of child-care facilities was listed as an example of measures that might be taken to enable parents to combine parental obligations and work. Another example might be shorter work days.

Article 13, paragraph 2

114. El Salvador noted that it would be necessary to add in this paragraph a reference to special measures to protect women under certain circumstances mentioned above with respect to article 13 as a whole. El Salvador explained that those measures which implied prohibition, did not mean any discrimination based on sex regarding the right to work, but, on the contrary, signified protection based on the physical condition of women.

115. The USSR objected to this paragraph on the grounds that though it contained a reasonable provision about the necessity to take measures to ensure the health and safety of all workers, it was out of the framework of this draft Convention, whose purpose it was to eliminate discrimination against women.

Article 13, paragraph 3

116. The United States of America suggested that this paragraph should be clarified and set apart from paragraph 4. The United States further presented two alternative versions of paragraph 3.

117. The USSR observed that paragraph 3 referred to the repeal of protective legislation applying to women or its extension to "all workers", though it was evident that not all special measures of protection to women could be extended to "all workers". The USSR specified that, as far as special protection to women is concerned, it was provided in paragraph 4 of article 13.

118. UNESCO presented an amendment to this paragraph (for the text of two alternative versions and the UNESCO amendment, see annex I).

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Article 13, paragraph 4

119. The United States of America stated that this paragraph was unacceptable under United States laws. The United States recommended the deletion of this paragraph or its change by the insertion of the word "pregnant" before the word "women".

120. The Netherlands expressed the opinion that in its present wording this paragraph might be interpreted as a justification of certain discriminatory policies against women and, in order to avoid it, the Netherlands proposed an amendment. Another amendment to this paragraph was proposed by UNESCO (see annex I).

VI. CIVIL AND FAMILY RIGHTS

Article 14, paragraph 1

121. No comments were made on this paragraph.

Article 14, paragraph 2

122. The Union of Soviet Socialist Republics indicated that it was necessary to clarify the Russian text of this paragraph. UNESCO proposed an amendment to this paragraph (see annex I).

Article 14, paragraph 3

123. The United States of America observed that this paragraph should be reworded to clearly indicate that only those contracts which restricted legal capacity of women because of their sex should be deemed null and void, believing that this was necessary because a State might nullify legal instruments of insane or senile persons. In the opinion of the United States, the clarification could be made by inserting the phrase "because of their sex" after "the legal capacity of women".

Article 15

124. Austria felt that this article contained a repetition of the term "discrimination" despite the comprehensive definitions in articles 1 and 2.

Article 15, paragraph 1 (c)

125. Austria suggested that this rule should also contain the requirements of de facto and de jure equality of the grounds for divorce for men and women.

Article 15, paragraph 1 (d)

126. Austria believed that it should be considered that unmarried mothers, for instance, may have special rights such as a right to official assistance and that this special treatment should not be eliminated.

127. Bahrain expressed reservation with respect to this paragraph, observing that equal rights and duties for men and women, whether they were married or not, in matters relating to their children, ran counter to the teachings of Islam which penalized illegitimate relationship between men and women. Bahrain considered it necessary to amend that paragraph in such a way as to make it provide for equal rights and duties for married men and women in matters relating to their children. In the opinion of Bahrain when unmarried, it was not advisable to give rights to either men or women with regard to their children, but rather to have a provision that secured the rights of children alone vis-à-vis both parents.

Article 15, paragraph 1 (e)

128. The German Democratic Republic stated that its domestic legal position was the following: according to section 9 of the Family Code of the German Democratic Republic, both spouses should decide on the number and spacing of their children by mutual agreement. Failing such agreement, the decision was taken by the wife alone, in accordance with section 1 of a law of 9 March 1972.

129. UNESCO proposed an amendment to this paragraph (see annex I).

Article 15, paragraph 1 (f)

130. Bahrain expressed reservation with respect to this paragraph. It pointed out that equal rights and duties in the exercise of parental authority as well as the equal right to adopt children ran counter to the provisions of Islamic Law, which vested in the mother the right to assume wardship of her children, in the first stages of life, while specifying the father's responsibility for alimony. Only when the child reached youth did the father assume wardship. Accordingly Bahrain proposed a new version of this paragraph (ibid.).

Article 15, paragraph 1 (g)

131. UNESCO proposed an amendment to this paragraph (ibid.).

Article 15, paragraph 1 (h)

132. Japan felt that this paragraph appeared to be aimed at ensuring equal rights of both spouses in respect of all kinds of property relating to marriage and family relations. However, in the opinion of Japan the provision would not serve to protect women's rights to property if it were to be construed to ensure the husband the equal rights of the ownership, acquisition, etc., with respect to his wife's property acquired before their marriage or the property considered to be owned by his wife alone throughout their marriage due to her own acquisition, inheritance, etc. Therefore, Japan suggested that the phrase "whether it be property owned by one spouse or joint property" should be deleted to avoid such construction.

133. New Zealand expressed the opinion that the present wording of this subparagraph could imply equal rights to dispose of property owned by the other spouse for a valuable consideration.

Article 15, paragraph 3

134. Japan observed that, in view of the protection of "legitimate marriage", it was questionable if this paragraph were to be constructed to establish that the children born in wedlock and those born out of wedlock were to enjoy equal rights to inheritance.

135. The Union of Soviet Socialist Republics proposed the deletion of this paragraph, considering it to be outside the framework of the draft Convention.

136. Bahrain also objected to this paragraph, though on different grounds. Bahrain was convinced that the elimination of all discrimination against single mothers

encouraged adultery which was punishable under Islamic Law and the positive laws of Bahrain. Bahrain proposed to delete this paragraph completely, finding that it was connected more with the issues of "illegitimate children" than with the problem of discrimination against women. Bahrain considered further that the contents of this provision, including the respect and adherence to the universal rights of children, especially their right to social and legal protection, irrespective of the circumstances of their birth could be incorporated in the international instruments which may be concluded during the International Year of the Child, scheduled for 1979.

137. UNESCO noted that at present legislation modeled on the concept of a sole male breadwinner deprived women of certain of the social benefits accruing to them although they undertook economic activities both within and outside the home setting. UNESCO felt that it would not appear appropriate to join women to the Declaration of the Rights of Child in this draft Convention. Therefore UNESCO proposed a new version of this paragraph (see annex I).

VII. FINAL PROVISIONS

Article 16

138. Japan stated that the phrases "more favourable" in paragraph 1 and "more extensive" in paragraph 2 should be more clearly defined, in particular, with regard to the criteria for judging what was more "favourable" or "extensive".

139. The United States of America stated that this article was unacceptable under United States law and would have to be deleted for the following reasons. First, United States Courts have held that many of the laws that contributed to the lower status of women in employment appeared on the face of it to grant benefits to women. Secondly, in the United States opinion, this article undermined the thrust of the Convention, which was designed to ensure equal treatment of the sexes, and, moreover, the United States felt this article went beyond article 4, which would allow temporary measures to bring about de facto equality of men and women and would authorize discrimination against men even if present inequities were rectified.

140. UNESCO, in the belief that this article could raise difficulties of legal character, proposed a new version of this article, substituting both the existing paragraphs (ibid.).

Article 16, paragraph 1

141. No comments were made on this paragraph.

Article 16, paragraph 2

142. Portugal considered the wording of paragraph 2 unacceptable when it refers to "more extensive rights for women". In the opinion of Portugal, such "more extensive rights" were not automatically justified; under the Portuguese

Constitution they could not be recognized, for instance, if they granted special protection to women for certain types of work from a standpoint other than their "social function of reproduction", to quote from article 13, paragraph 4 of the draft.

143. The International Labour Organisation, in a communication dated 15 March 1977 addressed to the Secretary-General of the United Nations by the Director-General of the International Labour Office (annex III), stated that

"The intent of the paragraph is not altogether clear. It appears to imply that the new Convention will supersede existing conventions adopted under the auspices of the United Nations and its specialized agencies unless these provide for more extensive rights for women ... Subsidiarily, the question may be raised of the meaning to be given to the term 'more extensive'; does it mean more detailed or more favourable, and by reference to what standard would this be determined?"

The ILO recommended that the original version of this paragraph, contained in paragraph 90 of the report of the Commission on the Status of Women 2/ should be restored and which reads as follows:

"Nothing in this Convention should affect existing conventions adopted under the auspices of the United Nations or its specialized agencies and having as their object the regulation of various aspects of the status of women."

144. FAO stated that it supported the ILO proposal outlined in the Economic and Social Council document (see annex III), which pointed out in the last paragraph a solution already adopted in the case of the International Covenants on Human Rights (i.e. unqualified safeguard in favour of other conventions adopted under the auspices of the United Nations or the specialized agencies). FAO agreed with the statements in paragraphs 10 and 11 of that document that the insertion of a clause referring to "more extensive rights of women" was likely to cause confusion and conflict for States that may be desirous of ratifying the new draft Convention. FAO felt, moreover, that a provision to this effect would not be easy to interpret.

Article 17, paragraph 2

145. The Union of Soviet Socialist Republics proposed to add at the end of paragraph 2 the words "who designates to be the depositary of the Convention".

Article 18

146. Japan pointed out that no concrete procedures for revision were provided for under this article. Moreover, in the opinion of Japan it was questionable to give the General Assembly a carte blanche to handle any request for revision from

2/ Official Records of the Economic and Social Council, Fifty-sixth Session, Supplement No. 4 (E/5451).

States parties, as provided for in paragraph 2. Therefore, Japan suggested that this article should provide for more detailed procedures for revision.

Article 19

147. Acceptance of article 19 was reported by the Federal Republic of Germany, which felt that the Ad Hoc Group to be established pursuant to article 19 seemed an appropriate body to examine the reports submitted by the States parties on the implementation of the Convention and to make this instrument more effective, and to evaluate these reports for the Commission on the Status of Women, a task which the Commission, in view of its wide-ranging agenda, would not be in a position to perform. The compromise over the mixed composition of the Group with some members from the Commission and some elected as independent persons from other States parties, also represented in the opinion of the Federal Republic of Germany, an improvement on the present situation and deserved support.

148. This opinion was shared by Denmark which observed that the measures set out in article 19 of the draft, which aimed at achieving the full realization of the rights recognized in the Convention, were a constructive feature. However, the Union of Soviet Socialist Republics observed that the progress made in the implementation of the Convention could be considered by the Commission on the Status of Women.

149. New Zealand felt that in article 19 of the draft Convention it would be desirable for the Commission on the Status of Women to be given supervisory powers over the Ad Hoc Group and its work, and that, in addition, there should be provision to ensure that the Economic and Social Council take into account the recommendations of the Commission. On the other hand, the German Democratic Republic, the Netherlands and Portugal found the procedure provided for in article 19 unsatisfactory.

150. The German Democratic Republic emphasized that many questions had been left open, in particular the following:

Exactly how many members should the Ad Hoc Group be comprised of?

Who was to decide thereon? What proportion of the Group's membership was to be made up of persons nominated by States parties to the Convention who were not at the same time members of the Commission on the Status of Women? How, when and by whom were those persons to be elected?

The German Democratic Republic felt strongly about the need to solve these and other questions in a concrete manner. It was in favour of setting up an ad hoc group composed exclusively of representatives of States parties to the Convention which were at the same time members of the Commission on the Status of Women.

151. The Netherlands expressed the opinion that the implementation section of the draft Convention needed to be extended. Firstly, the draft Convention should contain provisions for inter-State complaints. The Netherlands also felt that

serious consideration should be given to including in the draft Convention the right of individual petition, providing persons under the jurisdiction of the States parties with the opportunity to submit complaints to the supervisory body. Finally, the Netherlands believed that appropriate provisions should be made so as to grant national and international non-governmental organizations the right to submit reports.

152. In the view of Portugal, the establishment of an ad hoc group along the lines proposed by this article did not constitute an answer to the problem of the review of progress made in the implementation of the Convention. Portugal believed this review should be conducted by a body:

(a) Composed of persons elected by and from among States parties, consideration being given to the principle of equitable geographic distribution and representation of differing legal systems;

(b) Composed of persons serving in their own capacity;

(c) Empowered to receive directly reports from States parties and communications from nationals of State parties;

(d) Empowered to make recommendations thereon and to draw up a final report to be submitted to the Economic and Social Council for approval or transmittal to the General Assembly.

Portugal recognized that this viewpoint was obviously not shared by all Member States, but there was considerable margin for compromise as regards most of the requisites above. However, Portugal felt that such a compromise could be acceptable to it only as long as two essential principles were respected: firstly, that members of this body should be elected by and from among States parties; and secondly, that the report of this body should be transmitted to the Economic and Social Council and not to a functional Commission of the Council. Portugal stated that in so far as paragraphs 3, 4 and 5 of article 19 did not retain these two basic requirements, Portugal could not agree with the present wording of these provisions.

Article 19, paragraph 1

153. UNESCO proposed an amendment to this paragraph (see annex I).

Article 19, paragraph 2 (a)

154. New Zealand believed that article 19, paragraph 2 (a), in the draft Convention should be strengthened by the substitution of the word "shall" for the word "may".

Article 19, paragraph 3

155. The United States of America suggested that this paragraph should be amended in favour of an ad hoc group of experts, not necessarily from the Commission on the Status of Women, to be able to give an independent report. Candidates should have worked to advance the rights of women and for the elimination of sex discrimination and not less than one half of the group should be women.

156. UNESCO proposed two amendments to this paragraph (see annex I).

Article 19, paragraph 7

157. UNESCO has proposed an amendment to this paragraph (ibid.).

An additional article on reservations

158. Japan felt that the provisions on reservations should be made clearer and simpler along the lines of the Vienna Convention on the Law of Treaties, in view of the following problems:

(a) In paragraph 1, it is stated that any State which objects to the reservation should notify the Secretary-General that it does not accept it. It was doubtful whether a State that was not yet a party to the Convention should be given the right to notify its objection.

(b) Paragraph 2 first states that "A reservation incompatible with the object and purpose of the present Convention shall not be permitted", and then states that "A reservation shall be considered incompatible or inhibitive if at least two thirds of the States parties to the Convention object to it." It is unclear whether (1) a reservation becomes incompatible only if two thirds or more of the State parties object to it, or (2) there can be also reservations that are considered incompatible regardless of whether or not there is objection to it by two thirds or more of the States parties.

(c) According to paragraphs 1 and 2, if a State ratifies, or accedes to, the Convention with a certain reservation, and if over two thirds of the States parties object to the reservation, then the reservation will be considered incompatible. The paragraphs are not clear as to certain ensuing legal questions, such as whether that State should be regarded as party to the Convention without that reservation; or the ratification or accession of that State should be considered nullified; or that State has to withdraw from the Convention.

ANNEX I

Amendments and new versions proposed to the draft Convention

Preamble

Amendments

Netherlands

The issues mentioned in paragraph 8 should not exclusively be related to the rights of women as they concern all human beings. Therefore, preference should be given to rewording the end of the paragraph as follows: "... in promoting human rights and fundamental freedoms in the achievement of which women should play their full part".

New Zealand

Paragraph 8. Delete from total to self-determination inclusive.

Union of Soviet Socialist Republics

Paragraph 3. For International Covenants on Human Rights read International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights.

Paragraph 5. After continues to exist add in a number of regions.

Paragraph 8. After security add relaxation of international tension,;

After colonialism add neo-colonialism, foreign domination;

After apartheid add the assertion of principles of justice, equality and mutual benefit in relations between countries,.

Paragraph 9. After require add the creation of conditions for.

UNESCO

Paragraph 2. After paragraph 2 add a new paragraph as follows:

Noting further that the interplay of the rights and responsibilities of men and women should constitute a fundamental aspect of equality policy,.

Paragraph 10. Replace the phrase the social significance of maternity ... by the social significance of child-bearing and of the role of both parents in the family and in the rearing of children,.

Article 1

Amendments

Netherlands

Replace on a basis of equality with men by on the basis of equality of men and women.

UNESCO

For human rights and fundamental freedoms read human rights, fundamental freedoms and responsibilities;

After public life add as well as the relations of women with other persons.

Article 2

Amendments

Union of Soviet Socialist Republics

Article 2, introductory phrase

After eliminating discrimination against women add in all its forms, denying or limiting their equality with men.

Article 2, paragraph (a)

Austria

For practical realization read de facto realization.

UNESCO

For through law or other appropriate means read through law and other appropriate means.

Article 2, paragraph (b)

Austria

For prohibiting read excluding.

Japan

In view of the extreme difficulty of applying sanctions to all forms of discrimination against women, and the inappropriateness of ensuring implementation, the word "prohibiting" should be replaced by "eliminating", and the words "accompanied by sanctions" should be either deleted or replaced by the words "accompanied by sanctions and/or incentives".

Article 2, paragraph (d)

UNESCO

After institutions insert , whether in the public or private sector, shall act in conformity with this obligation.

Article 2, paragraph (e)

New Zealand

Delete endeavour to.

United States of America

For preventive read appropriate. /Because of constitutional limitations on federal action against sex discrimination by individuals or private organizations, the word "appropriate" is needed in this subsection./

Article 2, paragraph (f)

Amendments

UNESCO

For discriminatory to women read discriminatory against women.

Article 4, paragraph (2)

Amendments

UNESCO

For aimed at protecting maternity read aimed at protecting the social function of child-bearing.

Article 5

New version

Austria

The new paragraph should read

The States Parties shall take all appropriate measures with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of the sexes.

Article 5, paragraph 2

Amendments

UNESCO

For motherhood read parenthood.

Article 8, paragraph (a)

Amendments

UNESCO

For publicly elected bodies read public bodies.

Article 8, paragraph (b)

Amendments

Austria

After national insert regional.

Union of Soviet Socialist Republics

After functions at add international,.

Article 9, paragraph 2

Amendments

Austria

For provisions read sanctions.

Article 10

Amendments

Introductory part of article 10

United States of America

The beginning sentence should be reworded to make it clear that those measures specified in (a)-(g) are also limited by the word "appropriate". It is recommended that the sentence be reworded along the lines of article 8: "Each State Party agrees to take all appropriate measures to ensure women ..., and, in particular to ensure (a) ...".

WHO

To exclude discrimination both against married women and women with children, replace married or unmarried by regardless of civil status.

Article 10, paragraph (a)

Amendments

Austria

For career guidance read vocational guidance.

New version

UNESCO

The new paragraph should read

Equal opportunities for women in pre-school, primary, secondary and higher education, technical and professional, as well as all types of vocational and scientific training, and equal conditions for career guidance; equality of access to studies in all fields and to diplomas in educational establishments of all categories in rural as well as in urban areas.

Article 10, paragraph (b)

Amendments

Japan

Basically, education should be equal to both sexes. At the same time, it is also necessary that specific characteristics of the sexes are respected in the educational process. Therefore, following article 2 of the UNESCO Convention against Discrimination in Education, replace equal access to the same curricula, the same examinations by Equal access to the curricula and examinations of the same or equivalent standard.

New paragraph

UNESCO

After paragraph (b) insert the following additional paragraph

The elaboration and the promotion of the use of curricula and teaching materials which furthermore are free of sex stereotyping and other forms of discrimination.

Article 10, paragraph (c)

Amendments

Austria

For co-education, which will also help read co-education and other means, which will help.

Article 10, paragraph (e)

Amendments

UNESCO

After including adult and functional literacy programmes add with the same curricula.

Article 10, paragraph (g)

Amendments

New Zealand

Since men as well as women require the information referred to in this subparagraph, the article should be modified to read Equal access for men and women ...

Additional article on cultural rights

UNESCO

The following article on cultural rights should be added

1. Each State Party agrees to undertake all appropriate measures to ensure the full entitlement of women to access to culture and to effective participation in the cultural life of their societies and to promote their contribution to the process of creating cultural values.
2. The States Parties agree to take all appropriate measures to ensure effective participation of women in all forms of the mass media and to ensure that media benefiting from public support and/or regulation portray women and men fairly, with the complexity required and without sex stereotyping.

Article 11

New paragraph

Netherlands

Insert a new paragraph in article 11, i.e. paragraph 1 (g) which reads as follows:

Equal access to medical services.

Article 11, paragraph 1

New version

UNESCO

The paragraph should read

The States Parties shall undertake to adopt all appropriate measures to ensure to women, married or unmarried, equal rights with men in the field of economic and social life and to ensure that the benefits of scientific and technological developments are equally enjoyed. These rights would include in particular:

Article 11, paragraph 2 (b)

Amendments

Japan

Concerning pregnancy and maternity leaves, it is appropriate for each State to adopt the effective domestic measures taking into account the existing social security system and other social services. Therefore, the word "paid" before the word "leave" and the phrase "the periods of leave ... performed" should be deleted.

UNESCO

The phrase "paid leave for pregnancy and maternity" should be amended to read "paid leave for pregnancy, maternity and subsequent related parental care". It is recommended that the words "or seniority acquired" be added to the phrase "without loss of the job held", since seniority constitutes an essential factor for career development and prospects.

Article 11, paragraph 2 (c)

Amendments

Austria

In the context of "child care services" the point should be made that they should meet up-to-date pedagogical requirements.

Japan

Since different countries have different forms of social security systems, certain problems would arise, if this article were meant to uniformly provide free medical services during pregnancy, confinement and the post-natal period. Therefore, the words "and to grant women ... post-natal period" should be changed to "to implement health measures for women during pregnancy and post-natal period, and to adopt relief measures, including financial assistance, for confinement expenses".

New Zealand

For possibilities of read appropriate.

Article 12, paragraph (b)

Amendments

New Zealand

After services insert of an equal standard to those available to men;.

The article should ensure that standards of care are as good as those available to men and should also include the idea that family planning advice, etc., should be equally available to men.

New version

WHO

Article 12 (b) should read (b) Have access to adequate health care facilities, including information, counselling, and services in family planning, as well as personal rights to social security on an equal footing with men.

Article 13, paragraph 3

Amendments

UNESCO

The above paragraph should be strengthened by bringing the wording into line with article 13, paragraph 4. Thus, line 1 of paragraph 3 should read "... should be periodically reviewed in the light of advances of ..."

Two alternative versions proposed

United States of America

The following alternative versions were proposed

States Parties which have enacted laws designed to protect women workers from hazardous or unhealthy conditions of employment shall undertake progressively to extend such protection to all workers, with the goal of eliminating differences in treatment of male and female workers and ensuring equal employment opportunities for women.

or,

Existing protective legislation applying to women should be reviewed and should be revised, repealed or extended to all workers as necessary to eliminate differences in treatment of male and female workers and ensuring equal employment opportunities for women.

Article 13, paragraph 4

Amendments

Netherlands

For harmful to them from the standpoint of their social function of reproduction read harmful to their ability to bear children.

UNESCO

For proved to be harmful to them from the standpoint of their social function of reproduction read which may endanger their health in respect of their capacity for child bearing.

Article 14, paragraph 2

Amendments

UNESCO

After the first sentence, an additional sentence should be inserted. States Parties shall in this respect take measures to ensure that women are accorded majority status at the same age as men in their countries.

The following sentence should read in part. States Parties shall give women equal rights ...

Article 15, paragraph 1 (e)

Amendments

UNESCO

For freely and responsibly on read freely and responsibly the conception.

Article 15, paragraph 1 (f)

New version

Bahrain

Subparagraph 1 (f) should read (f) Recognition of equal rights and duties of both men and women in respect of wardship of children in such a way that does not run counter to the interests of the children and conforms with the rules and regulations of society derived from the provisions of the applicable religious and positive laws prevailing in the society.

Article 15, paragraph 1 (g)

Amendments

UNESCO

The words "and a place of residence" should be added at the end of the phrase "including the right to choose a family name, a profession and an occupation" as this right is intricately linked to women's training and employment opportunities.

Article 15, paragraph 3

New version

UNESCO

Paragraph 3 should read

3. To eliminate discrimination against one parent and matri-focal families, where women are often the sole breadwinners, and ensure that these parents enjoy equal rights for themselves and their children and equal legal and social protection.

Article 16

New version

UNESCO

The new version should read:

/...

"Nothing in the present Convention shall be construed as affecting the rights acquired by women under the provisions of domestic legislation in force in a State Party or under existing conventions adopted under the auspices of the United Nations or the specialized agencies to which that State is a Party."

Article 19, paragraph 1

Amendment

UNESCO

The phrase should read aimed at assuring the full realization of the rights and responsibilities recognized in the present convention.

Article 19, paragraph 3

Amendments

UNESCO

The text should be changed to read "and representation of differing legal and social systems, and an equitable balance of women and men members".

If the ad hoc Group of persons serving in their personal capacity is to achieve real influence, its members should be allowed to acquire the expertise which comes, inter alia, with some length of service. Since signatory States are to report to the Secretary-General "every two years" (article 19, para. 2 (a)) article 19, paragraph 3, should be amended in fine by the addition of the words: "and shall be eligible for re-election for a further two-year term and be eligible as candidates for two subsequent terms if they so desire".

Article 19, paragraph 7

Amendment

UNESCO

The end of the paragraph should read the measures taken and the progress made in achieving the full realization and the observance of the rights and responsibilities recognized in the present Convention.

ANNEX II

Resolution adopted by the National Commission on the Role of Filipino Women with respect to the Draft Convention on the Elimination of Discrimination against Women

OFFICE OF THE PRESIDENT
National Commission on the Role of Filipino Women

COMMENTS ON DRAFT CONVENTION

3521 (XXX). Equality between men and women and elimination of discrimination against women

The National Commission on the Role of Filipino Women,

Primarily concerned with the status and integration of women in a concerted effort towards national and regional development,

Deeply convinced that discrimination against women is repulsive to and incompatible with the concept of equality and brotherhood among men, and

In pursuance of the provisions of the Charter of the United Nations which emphasizes the importance of the respect for human rights and fundamental freedom without distinction as to sex, etc.

Strongly recommends:

1. That the convention work at specific criteria and plan of action whereby women, representing different sectors in the community, may be fully utilized;
2. That more women representatives be heard in conventions such as one involving their status and role in development;
3. That Governments represented pass or/and enforce laws which provide ample protection for and opportunity to women to participate in decision-making;
4. That policies be made which provide more avenues for and assurance of equality between men and women both in fact and in law;
5. That follow-up conventions be held to assure implementation and evaluation of policies formed and adopted;
6. That focus be made on rural women by giving them the necessary support and scheme of action in community development;
7. That there be a proportionate distribution and/or increase of top-level positions for women both in the national and regional levels.

/...

ANNEX III*

Communication dated 15 March 1977 from the Director-General
of the International Labour Office addressed to the
Secretary-General of the United Nations

At its forthcoming sixty-second session, the Economic and Social Council will consider the draft of a Convention on the Elimination of Discrimination against Women, prepared by the Commission on the Status of Women. One provision of this draft, concerning the relations between the proposed convention and other conventions adopted under the auspices of the United Nations or its specialized agencies, as presently worded, involves legal difficulties which may adversely affect the standard-setting activities of the United Nations and the specialized agencies.

As the legal implications of that provision have not been fully explored at the level of the Commission on the Status of Women, it would be desirable for the Economic and Social Council itself to consider the matter. For this purpose, I would like to submit to the Council the attached memorandum, and would request that it be circulated at an early date as an official document of the Council.

(Signed) Francis BLANCHARD
Director-General

* Previously issued under the symbol E/5938.

Memorandum by the Director-General of the International
Labour Office concerning article 16, paragraph 2,
of the draft Convention on the Elimination of
Discrimination against Women

Introduction

1. At its forthcoming sixty-second session, the Economic and Social Council will have before it the report of the Commission on the Status of Women in which the Commission submits a draft of a convention on the elimination of discrimination against women. Article 16, paragraph 2, of the draft, concerning the relationship between the proposed convention and conventions adopted under the auspices of the United Nations or its specialized agencies, as presently worded, appears likely to involve legal difficulties which may adversely affect the standard-setting activities of both the United Nations and the specialized agencies. The purpose of the present memorandum is to draw the attention of the Council to these difficulties, to explain their nature and to suggest ways of overcoming them.

2. Article 16, paragraph 2, reads as follows:

"Similarly, nothing in the present Convention shall affect existing conventions adopted under the auspices of the United Nations or the specialized agencies and having as their object the regulation of various aspects of the status of women, if they provide for more extensive rights for women."

3. The intent of the paragraph is not altogether clear. It appears to imply that the new convention will supersede existing conventions adopted under the auspices of the United Nations or its specialized agencies unless these provide for more extensive rights for women. Is it possible to deal in this manner with the interrelationship between conventions adopted in different constitutional frameworks and creating obligations for Governments? Subsidiarily, the question may be raised of the meaning to be given to the term "more extensive" - does it mean more detailed, or more favourable, and by reference to what standard would this be determined?

History

4. The first draft of the convention, prepared by a working group of the Commission on the Status of Women in January 1974, contained an article 17 safeguarding existing national legislation which provides for more extensive rights for women than provided for in the proposed convention.

5. At an advanced stage of the working group, the representative of Hungary proposed an additional article aimed at regulating the relationship of the proposed new convention to existing conventions. The working group was unable to consider this proposal, but agreed that it should be introduced in the full Commission (report of the working group (E/CN.6/574), para. 28). The Commission,

/...

which did not itself examine the text of the proposed convention article by article, agreed that the draft articles for a convention which would be sent to Governments for their comments should be supplemented by the Hungarian proposal. a/ That proposal was added to article 17 as a supplementary paragraph. It read as follows:

"Nothing in this Convention should affect existing conventions adopted under the auspices of the United Nations or its specialized agencies and having as their object the regulation of various aspects of the status of women."

6. Only two of the 40 Governments which commented on the draft articles between 1974 and 1976 were opposed to the inclusion of the proposal; a number of others strongly supported it.

7. At the twenty-sixth session of the Commission on the Status of Women, the proposal was adopted as article 16, paragraph 2, but with the addition of the phrase - drawn from the paragraph safeguarding national legislation - "if they provide for more extensive rights for women". The addition was put forward at a late stage of the discussions in the Commission, and there was accordingly no opportunity for the legal problems concerning the relationship between a convention and national legislation - to be fully placed before the Commission.

Legal considerations

8. International conventions are designed to create legal obligations for Governments. Such obligations are not immutable; they are likely to be open to modification by some appropriate and orderly system of amendment or revision. They are also normally open to unilateral denunciation; however, in many conventions such unilateral withdrawal is possible only at specified, relatively infrequent, intervals. In all these circumstances, it is important to ensure that the competent organs of different organizations do not give States conflicting directives and obligations.

9. It should be noted that conventions adopted within the constitutional framework of international organizations often create not only obligations between ratifying States but obligations in relation to the organization or to third parties. For instance, the Constitution of the ILO entitles employers' and workers' organizations or delegates to initiate procedures for the enforcement of international labour conventions. This means that the relationship between such conventions and those adopted in a different legal framework cannot, without more, be dealt with under article 30 of the Vienna Convention on the Law of Treaties (application of successive treaties relating to the same subject-matter); it was pointed out at the Vienna Conference that this is an area in which, in virtue of article 5 of the Vienna Convention, the rules of the organization, including its own arrangements for revision of conventions, would have to prevail.

a/ Official Records of the Economic and Social Council, Fifty-sixth Session, Supplement No. 4 (E/5451), para. 90.

10. In the light of the foregoing, what is the significance of article 16, paragraph 2, of the proposed convention, in its original and in its amended form?

(a) If there had been no such provision at all, the situation faced by Governments, once the convention was adopted, would have been the following. The proposed convention is an "umbrella" convention which covers, in fairly general terms, subject-matter dealt with in more detail in a number of existing conventions adopted within the United Nations, the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization. Governments, in examining the possibility of ratification, would have had to ensure that obligations under the new convention did not conflict with obligations already assumed under existing ones. If such a conflict were found - or even feared - to exist, and it were considered to be either impossible (no immediate possibility of denunciation) or undesirable (by reference, for instance, to the more detailed protection provided, or to more general considerations) to denounce the existing obligations, the new convention could not be ratified or could be ratified only with reservations.

(b) Article 16, paragraph 2, in its original form eliminated the difficulty. Under it, a Government could ratify the new convention in the knowledge that, if any conflict with an existing obligation were found to exist, it was expressly entitled to continue to comply with the existing obligation. Conflict, if any, is likely to be minor, in that, in drafting the new convention, great care has been taken by all concerned to avoid divergencies in obligations; however, in an instrument written in very general terms, it is difficult to foresee all possible implications, and the provision was accordingly designed both to provide reassurance for Governments and to prevent non-ratification of a convention covering a great deal of ground because of such difficulties.

(c) The addition of a qualifying phrase to the paragraph has to a large extent restored the position as it would have been if there were no such paragraph. Where there is found, or feared, to be a conflict with an obligation under a convention which cannot be shown to "provide for more extensive rights of women", Governments are again in a quandary. The fact that the notion of "more extensive rights" is not necessarily self-explanatory would not facilitate a solution.

11. There appears to have been some misapprehension that the addition to the original text was necessary to ensure that in all cases the provision most favourable to women would prevail. It should be emphasized that this is not the case. The fact that a new convention sets a higher standard than an existing one does not necessarily create a conflict of obligations; indeed, the proposed convention in a number of respects "improves" on international labour conventions without creating conflict. At the same time, methods of application may create difficulty. To give an example from an area unrelated to the proposed convention, it is possible for obligations to grant an annual holiday of two weeks and three weeks, respectively, to coexist without conflict, but provisions which, on the one hand, require the holiday to be taken in the year in which it is due and, on the

other hand, permit it to be accumulated over a period of years cannot coexist (while one may well ask oneself which of them creates more extensive rights).

Conclusions

12. The Director-General of the ILO is taking the liberty of submitting to the Economic and Social Council the suggestion that the provision in question should be adopted in its original form, because he believes that an important issue of principle is at stake, and that this case could constitute a precedent. He recalls, in this connexion, the recommendations concerning the co-ordination of the legislative work of the various organizations submitted to the Economic and Social Council by the Administrative Committee on Co-ordination in May 1974 (E/5488) and, in particular, the statement that one of three fundamental concerns was to prevent conflict between the obligations undertaken by the States under different instruments, as well as in the interpretation and supervision of the implementation of instruments adopted by various organizations; these recommendations were noted by the Economic and Social Council and were, in the ILO, welcomed in the Governing Body at its one hundred and ninety-fourth session. He also recalls the fact that in the most important examples so far of "umbrella" conventions adopted under the auspices of the United Nations, namely, the Covenants on Human Rights, provisions were inserted which safeguard the constitutional authority of the specialized agencies and obligations arising under particular instruments adopted within them (see, for instance, articles 8 and 24 of the Covenant on Economic, Social and Cultural Rights). Finally, it should be added that there does not appear, at first sight, to be any substantive conflict between the proposed convention and existing ILO conventions, and the suggestion here put forward accordingly is in no way directed against any of the substantive provisions of the proposed convention.

ANNEX IV*

Draft Convention on the Elimination of Discrimination
against Women

PREAMBLE

The States Parties to the present Convention,

Noting that the Charter of the United Nations reaffirmed faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Noting that under the international covenants on human rights, States have the obligation to secure the equal right of men and women to enjoy all economic, social, cultural, civil and political rights,

Considering the conventions concluded under the auspices of the United Nations and the specialized agencies and the resolutions, declarations and recommendations adopted by them promoting equality of rights of women and men,

Concerned, however, that despite those various instruments, extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family, and makes more difficult the full development of the potentialities of women in the service of their countries and humanity,

Concerned particularly that scientific and technological progress has, in general, improved the potential for employment and the development of new skills but without benefiting women to the same extent as men,

Affirming that the strengthening of international peace and security, friendly co-operation among States irrespective of their social and economic systems, total and complete disarmament under strict and effective international control, the

* Previously issued in Official Records of the Economic and Social Council, Sixty-second Session, Supplement No. 3 (E/5909).

elimination of colonialism and racism in all their forms including apartheid, elimination of the gap between developing and developed countries, and the right to self-determination are vital in promoting the fundamental rights of women in the achievement of which they should play their full part,

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

Bearing in mind the great contribution of women to the development of society, so far not fully recognized, the social significance of maternity and of the role of parents in the family and in the rearing of children,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination de facto or de jure,

Have agreed on the following:

I. GENERAL PROVISIONS

Article 1

For the purpose of the present Convention the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect of or the purpose of impairing or nullifying the recognition, enjoyment or exercise by women, on a basis of equality with men, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

Article 2

The States Parties condemn discrimination against women and undertake to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women and, to this end:

(a) Each State Party undertakes to embody the principle of the equality of men and women in its national Constitution if not yet incorporated therein, and to ensure, through law or other appropriate means, the practical realization of this principle;

(b) Each State Party undertakes to adopt legislative and/or all other appropriate measures, accompanied by sanctions, prohibiting all discrimination against women and guaranteeing the realization of the principle of equality of rights;

(c) Each State Party undertakes to establish legal protection for equal rights of men and women;

(d) Each State Party undertakes to engage in no act or practice of discrimination against women and to ensure that public authorities and public institutions shall act in conformity with this obligation;

(e) Each State Party shall endeavour to take all preventive measures to eliminate discrimination against women by any person or organization;

(f) Each State Party shall take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which are discriminatory to women;

(g) Each State Party shall endeavour to promote organizations and movements whose purpose is to advance the status of women and eliminate discrimination against them.

Article 3

The States Parties shall undertake in all fields, in particular the political, social, economic and cultural, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4

1. Adoption by States of temporary special measures aimed at accelerating de facto equality shall not be considered discriminatory but shall in no way entail, as a consequence, the maintenance of unequal or separate standards and should be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States of special measures, including those measures contained in the present Convention, aimed at protecting maternity, shall not be considered discriminatory.

Article 5

1. The States Parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

2. Suitable family education should include a proper understanding of motherhood as a social function and the recognition of the common responsibility of both men and women in the upbringing and development of their children.

Article 6

Each State Party agrees to repeal all provisions of national penal codes which constitute discrimination against women.

Article 7

Each State Party agrees to take all appropriate measures, including legislation, to combat all forms of traffic in women and exploitation of prostitution of women.

II. POLITICAL RIGHTS

Article 8

The States Parties shall undertake all appropriate measures to ensure to women, on equal terms with men and without any discrimination, equal opportunities to participate in the political and public life of the country and, in particular:

(a) To vote in all elections and be eligible for election to all publicly elected bodies;

(b) To participate in the formulation of government policy and the administration thereof and to hold public office and perform all public functions at the national and local levels;

(c) To vote in all public referenda;

(d) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Article 9

1. The States Parties shall grant spouses equal rights to acquire, change or retain their nationality and shall require, in particular, that neither marriage of a person to, nor dissolution of marriage from, an alien nor the change of nationality by an alien person during marriage shall automatically change one's nationality, render one stateless or force upon one the nationality of the spouse.

2. Each State Party agrees that the alien husband or wife of one of its nationals may, at his or her request, acquire the nationality of his or her spouse through specially privileged naturalization procedures; the granting of such nationality is subject to such limitations as may be imposed in the interests of national security, public policy or certain penal or administrative provisions taken against the applicant.

3. Each State Party agrees that the present Convention shall not be construed as affecting any legislation or judicial practice by which the alien husband or wife of one of its nationals may, at his/her request, acquire his/her spouse's nationality as a matter of right.

4. The States Parties agree to grant women equal rights with men to transmit their nationality to their children.

III. SOCIAL AND ECONOMIC RIGHTS

Article 10

Each State Party agrees to take all appropriate measures to ensure to women, married or unmarried, equal rights with men in the field of education, which education shall be directed towards the full development of the human personality and the sense of its dignity and shall strengthen the respect for human rights and fundamental freedoms. In particular, each State shall ensure:

(a) Equal conditions for career guidance, access to studies and achievement of a diploma in educational establishments of all categories in rural as well as in urban areas; this equality is to be ensured in pre-schooling, general, technical, professional and higher, including higher technical education, as well as in all types of vocational training;

(b) Equal access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality, whether the institutions are co-educational or not;

(c) The speedy achievement of co-education, which will also help to eliminate any stereotyped concept of masculine and feminine roles, at all levels and in all forms of education;

(d) Equal opportunities to benefit from scholarships and other study grants;

(e) Equal opportunity for access to programmes of continuing education, including adult and functional literacy programmes, particularly aimed at reducing, at the earliest possible time, the knowledge gap existing between men and women;

(f) Measures to reduce the school drop-out rate among girls and the provision of programmes for young girls who have left school too early;

(g) Access to specific educational information to help ensure the health and well-being of families, this to include information and advice on family planning.

Article 11

1. The States Parties shall undertake to adopt all appropriate measures to ensure to women, married or unmarried, equal rights with men in the field of economic and social life and, in particular:

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(a) The right to work as an inalienable right of all human beings;

(b) The right, without discrimination on grounds of civil status or any other grounds, to receive vocational training and retraining, to free choice of profession and employment and to promotion and job security;

(c) The right to equal remuneration with men for work of equal value and to equality of treatment in respect of the evaluation of quality of work of equal value, as defined in the Convention of the International Labour Organisation on this subject;

(d) The right, equally with men, to social security, particularly in case of retirement, unemployment, sickness, invalidity and old age or other incapacity to work, as well as the right to paid leave;

(e) The right to family benefits on equal terms for men and women;

(f) Equal employment opportunities for women and prevention of discrimination in employment on the basis of sex.

2. In order to prevent discrimination against women on account of marriage or maternity and to ensure their effective right to work, the States Parties shall undertake measures:

(a) Prohibiting, subject to the imposition of penalties, dismissal on grounds of marriage, pregnancy or maternity leave;

(b) Progressively to introduce paid leave for pregnancy and maternity without loss of the job held and without loss of social allowances and benefits, the periods of leave being treated as equivalent to periods of work actually performed; the cost of this protection should be borne by social security systems or other public funds or collective systems;

(c) To encourage the provision of the necessary supportive social services, including possibilities of child-care services, and to grant women free medical services during pregnancy, confinement and the post-natal period.

Article 12

The States Parties shall take all measures to eliminate discrimination against women in rural areas in order to guarantee them equality as participants in and beneficiaries of agricultural and rural development and particularly the right to:

(a) Participate fully in the formulation and implementation of development planning from the local to the national levels;

(b) Receive adequate medical and health facilities, including family planning advice and services, as well as personal rights to social security on an equal footing with men;

(c) Obtain all types of training and education, formal and non-formal, including functional literacy, as well as the benefit of all community and extension services;

(d) Participate equally in all community activities including co-operatives;

(e) Obtain equal access to credit and loans, marketing facilities, appropriate technologies and equal treatment in land and agrarian reform as well as in land resettlement schemes.

Article 13

1. The States Parties shall encourage measures to enable parents to combine fulfilment of family and parental obligations with activity in the labour force, in professions and in public life and shall, for that purpose, promote the establishment of child-care facilities as needed, as a co-operative effort of Government, business and industry and other institutions and organizations in the private sector.
2. Appropriate measures shall be taken, including legislation to ensure the health and safety of all workers, male and female, in their conditions of employment.
3. Protective legislation applying to women should be reviewed in the light of scientific and technological knowledge, and should be revised, repealed or extended to all workers as necessary.
4. The States Parties shall adopt measures to extend special protection to women for types of work proved to be harmful to them from the standpoint of their social function of reproduction. Such measures shall be periodically reviewed and brought up to date in cases where such limitations are discriminatory with regard to free choice of employment of women and in the light of advances in scientific and technological knowledge.

IV. CIVIL AND FAMILY RIGHTS

Article 14

1. The States Parties shall accord to women equality with men before the law.
2. The States Parties shall accord to women a civil and legal capacity identical to that of men, and the exercise of that capacity. They shall in particular give them equal rights to conclude contracts and administer property and treat them equally in all stages of procedure in courts and tribunals.
3. The States Parties agree that all contracts and all other legal instruments of any kind directed at restricting the legal capacity of women shall be deemed null and void.

/...

4. The States Parties shall accord to men and women the same rights with regard to the law on the movement of persons and the freedom to choose their residence and domicile.

Article 15

1. The States Parties shall adopt all necessary measures to ensure the full equality of women with men in all matters relating to marriage and family relations, including:

(a) The same right as men to enter into the marriage state;

(b) The same right as men to free choice of a spouse and to enter into marriage only with their free and full consent;

(c) Equal rights and responsibilities with men during marriage and at its dissolution;

(d) Equal rights and responsibilities with men for women, whether married or not, in matters relating to their children; in all cases the interests of the children shall be paramount;

(e) Equal rights of men and women to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise this right;

(f) Recognition of equal rights and responsibilities to be guardians and trustees, and also of an equal right to adopt children;

(g) Recognition of the equal personal rights of husband and wife, including the right to choose a family name, a profession and an occupation;

(h) Recognition of equal rights of both spouses in respect of the ownership, acquisition, management, administration, enjoyment, disposition - whether free of charge or for a valuable consideration - or inheritance of property, whether it be property owned by one spouse or joint property.

2. The betrothal and the marriage of a child shall be prohibited and effective action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

3. To eliminate discrimination against single parents and to give effect to the principle proclaimed in the Declaration of the Rights of the Child that all children shall be protected, irrespective of the circumstances of their birth, the States Parties shall provide that all children shall enjoy equal rights and equal legal and social protection.

V. FINAL PROVISIONS

Article 16

1. Nothing in the present Convention shall affect the provisions of domestic legislation in force in a State Party if they are more favourable to women.
2. Similarly, nothing in the present Convention shall affect existing conventions adopted under the auspices of the United Nations or the specialized agencies and having as their object the regulation of various aspects of the status of women, if they provide for more extensive rights for women.

Article 17

1. The present Convention shall be open for signature by all States.
2. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Convention shall be open to accession by any State. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 18

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 19

1. The States Parties undertake to adopt measures at the national level, including the establishment of machinery and procedures, aimed at achieving the full realization of the rights recognized in the present Convention.
2. (a) Every two years following the entry into force of the present Convention, the States Parties undertake to submit to the Secretary-General of the United Nations reports on the legislative, judicial, administrative or other measures which they have adopted and on the progress made in implementing the provisions of the Convention; reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the Convention;

(b) In preparing their reports, the States Parties shall make use of national machinery established to promote the advancement of women and of appropriate non-governmental organizations;

(c) The States Parties shall furnish their reports in stages, in accordance with a programme to be established by the ad hoc Group set up under this article after consultation with the States Parties and the specialized agencies concerned.

3. For the purpose of considering the progress made in the implementation of the present Convention by the States Parties, the Commission on the Status of Women shall establish an ad hoc Group consisting of 10 to 15 persons. The Group shall be elected by the Commission from among its own members who are States Parties to the Convention and from an additional list of persons nominated by States Parties to the Convention who are not members of the Commission, consideration being given to the principle of equitable geographical distribution and representation of differing legal systems. Those elected to the Group shall serve in their personal capacity and shall be elected for a two-year term.

4. The ad hoc Group shall normally meet for a period of not more than two weeks before the opening of the regular session of the Commission on the Status of Women, to consider the reports submitted in accordance with paragraph 2 above.

5. The ad hoc Group shall report to the Commission on the Status of Women on its activities and may make general recommendations based on the examination of the reports from the States Parties. The Commission shall transmit the report of the Group, together with its own comments, to the Economic and Social Council.

6. Specialized agencies shall be entitled to be represented at different stages of the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. They shall be entitled to submit reports on the implementation of relevant instruments adopted by them or under their auspices.

7. The Economic and Social Council shall submit periodically to the United Nations General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Convention and the specialized agencies on the measures taken and the progress made in achieving full observance of the rights recognized in the present Convention.

8. The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Convention, which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Convention.

Article 20

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 21

The Secretary-General of the United Nations shall inform States of the following:

- (a) Signatures, ratifications and accessions under article 17;
- (b) The date of entry into force of the present Convention under article 20.

Article 22

The present Convention, the Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited in the archives of the United Nations. Duly certified copies of the present Convention shall be transmitted to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed the present Convention.

An additional article on reservations

1. The Secretary-General of the United Nations shall receive and circulate to all States which are or may become Parties to the present Convention the text of reservations made by States at the time of ratification or accession. Any State which objects to the reservation shall, within a period of 90 days from the date of the said communication, notify the Secretary-General that it does not accept it.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted, nor shall a reservation the effect of which would inhibit the operation of the ad hoc Group established by the Convention be allowed. A reservation shall be considered incompatible or inhibitive if at least two thirds of the States Parties to the Convention object to it.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General. Such notification shall take effect on the date on which it is received.