

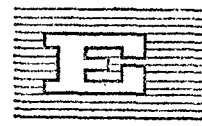
UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/1318/Add.1
20 December 1978

Original: ENGLISH/FRENCH



COMMISSION ON HUMAN RIGHTS
Thirty-fifth session
Item 11 of the provisional agenda

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS,
INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION;
ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM
FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Report prepared by the Secretary-General pursuant to
resolution 26 (XXXIV), paragraph 3(a), (b) and (c) (i)
of the Commission on Human Rights

Addendum

CONTENTS

	<u>Page</u>
I. Information communicated by Member States (<u>continued</u>):	
Australia	2
Belgium	17
Canada	22
Finland	28
France	30
Hungary	32
German Democratic Republic	35
IV. Information communicated by the relevant non-governmental organizations (<u>continued</u>):	
Women's International Democratic Federation	39

I. INFORMATION COMMUNICATED BY MEMBER STATES

AUSTRALIA

[Original: English]

[22 November 1978]

Australia has a firm tradition of support for the evolution within the United Nations framework of universally acceptable standards and principles. The Australian Government believes that debate on human rights matters in the United Nations is a most important vehicle for the promotion and protection of human rights in all Member States.

Australia voted in favour of the adoption of resolution 32/130 at the thirty-second Session of the United Nations General Assembly. The Commission on Human Rights was requested to undertake an over-all analysis of the alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms, in the light of the concepts contained in that resolution. This paper is submitted in response to the Secretary-General's Note No. G/SO. 214(26) of 15 May 1978 requesting comments from governments, further to the Commission's resolution 26 (XXXIV). The paper reflects a belief that the current exercise on the "over-all analysis" should attempt to traverse as much as possible of the area encompassed in the United Nations human rights debate, and should be embarked upon in the freest possible manner. With growing awareness of the critical importance of the human rights of individuals and peoples, discussion in the United Nations, and in particular in the Commission on Human Rights, is now assuming increasing importance.

General Approach

Improvement of the effective enjoyment of human rights and fundamental freedoms is the basic purpose of the Commission's over-all analysis. Since its formation, the United Nations has adopted a wide range of alternative approaches and ways and means of promoting human rights and fundamental freedoms. The basic principles set out in the United Nations Charter have guided the development of such approaches. In the Preamble to the Charter, Member States "reaffirm faith in fundamental human rights and the dignity and worth of the human person and the equal rights of men and women and of nations large and small". Articles 55 and 56 taken together recognize that "all Members pledge themselves to take joint and separate action in co-operation with the Organisation for the achievement" of a number of purposes which "the United Nations shall promote", among them "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion".

Since its adoption in 1948, the Universal Declaration of Human Rights has provided a framework for the evolution of approaches to promoting and protecting human rights. Australia upholds the Declaration as a "common standard of achievement for all peoples and all nations" and a principal point of reference for further efforts to encourage the better observance of human rights. To this end Australia is to commemorate the 30th anniversary of the Declaration with a programme of activities, including the provision of a human rights discussion kit to schools, community and ethnic organizations and the availability of the Declaration in over 50 languages spoken in Australia.

The international debate on human rights is an evolving one and the role of the United Nations in providing a forum for the frank expression of diverse views is of fundamental importance. Standards have been set through the entry into force of a wide range of human rights instruments and it is incumbent upon the United Nations to encourage widespread ratification of or accession to such instruments, as well as promoting their observance. Not all Member States are in a position to accede to all instruments, or to meet all the obligations set out in them. But, increasingly, Member States have by signature and ratification or accession accepted specific obligations and there is therefore an ever widening commitment to internationally recognized standards. There is also, of course, an increasing need for multilateral implementation procedures and for encouragement to be given to the development of national human rights institutions and machinery.

The translation into international treaty law of principles to encourage the better promotion and protection of human rights remains a valid and purposeful means of United Nations involvement in human rights. As new instruments become possible or necessary, it is in the interests of all Member States that the drafting process be conducted as effectively as possible. The Commission on Human Rights is a most important forum for the drafting of new instruments, but the length of time required for such drafting in the past suggests that existing procedures could usefully be reviewed. Australia has already initiated in the General Assembly a study of multilateral treaty making procedures and, looking to the further discussion which is to take place in the Sixth Committee of the Assembly at its thirty-fourth session, would accordingly welcome consideration being given to the question of treaty making procedures by the Commission in the context of the over-all analysis.

There are, of course, a number of other questions of pressing concern even if solutions can, in many instances, only evolve with time. The early identification of matters likely to attract a consensus is to be encouraged. At the same time, it is a fundamental assumption of Australia's approach to the over-all analysis that the objective should not be to narrow the United Nations debate on human rights to a finite number of approaches or ways and means of improving the effective enjoyment of human rights. Rather the objective should be to build Member States' confidence in the United Nations' competence in this area, by encouraging a spirit of co-operation and objectivity.

Resolution 32/130

Prior to the adoption of resolution 32/130, the Australian delegation welcomed the draft as performing "a valuable function in pointing to issues on which the international community must focus in the years ahead". "It reflected what many delegations believed to be important new points of emphasis, while at the same time reaffirming the importance of the human rights and fundamental freedoms of individuals".

The concepts contained in the resolution will be subject to further clarification and Member States' interpretations of the assumptions and implications of the resolution will need to be taken into account in the over-all analysis. The Australian Representative's statement at the Commission's thirty-fourth session provided a broad outline of the Australian position. It is included in this paper at Annex B. The Australian Minister for Foreign Affairs also referred to resolution 32/130 in his plenary statement at the thirty-third session of the General Assembly and the human rights section of his statement is included at Annex A, as are extracts from his plenary statement before the General Assembly at its thirty-second session (1977).

Further references to resolution 32/130 are incorporated into the comments below on Australia's approach to the over-all analysis, which follow the format of the report prepared by the Secretary-General pursuant to decision 4 (XXXIII) of the Commission on Human Rights (document E/CN.4/1273 of 1 December 1977).

I. STRENGTHENING THE CAPACITY OF THE COMMISSION ON HUMAN RIGHTS
TO PROMOTE THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS
AND FUNDAMENTAL FREEDOMS

A. STATUS OF THE COMMISSION

The Commission is a most important body in the United Nations system and is the principal body concerned with the broad subject of human rights. There is no question that its status should be maintained. There have been several proposals looking towards enhancing the status of the Commission by means of new machinery, but clearly the most important factor is the approach of Member States to the Commission. If Member States continue to accord importance to the Commission, its continued high status will not be in doubt.

Proposals that the Commission report direct to the General Assembly have been put forward on occasions. These, however, call into question the role of ECOSOC, under the Charter, in relation to policy formulation and co-ordination of the activities of the United Nations system in the field of human rights. With the Commission highly active in its own right, and with increasing attention being drawn to the work of the Committee on the Elimination of Racial Discrimination and to that of the Human Rights Committee, and also because of increasing emphasis on human rights questions in bodies such as UNESCO and ILO, ECOSOC's role has not been a dynamic one in the human rights area. However, it does retain the potential for action, as well as its co-ordination function.

The human rights work of other bodies within the United Nations system has implications for the Commission; to date the Commission has gained as a result of increased human rights activity in the United Nations as a whole, and there has been no diminution in the importance of its various functions and procedures.

B. CREATION OF SUB-COMMISSIONS AND OTHER SUBSIDIARY ORGANS

Rather than see new sub-commissions established, Australia would prefer that the Commission give greater attention to the work and potential of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. To this end, consideration might be given to requesting the Chairman of the Sub-Commission to report to the Commission, early each session, on the various proposals submitted to the Commission and on the general status of work within the Sub-Commission.

Australia appreciates the important contribution that members of the Sub-Commission, acting in their personal capacities, are in a position to make to the Commission's work. The Sub-Commission has been most effective in the area of standard setting and drafting of new instruments.

C. LONG-TERM PROGRAMME OF WORK

While it is clear that agreed guidelines are required, these should be regarded as reasonably flexible and if necessary subject to annual reconsideration. The Commission's activities should not be restricted by the terms of a long-term programme of work. Not only is it important that the Commission be responsive to the interests

of Members, but it is also essential for the Commission to be able to deal with questions as they arise. It has to be borne in mind that the membership of the Commission changes each year and that all Member States wish to have the chance to contribute in the fullest possible manner to the work of the Commission.

The Commission's present terms of reference, its ongoing agenda items and functions, together with decisions of the General Assembly, such as resolution 32/130, provide impetus and guidelines for the Commission's work.

D. PROCEDURES OF THE COMMISSION

(i) Procedures to deal with communications alleging violations of human rights

There is a growing public expectation that the United Nations should be able candidly to consider situations where gross breaches of human rights appear to have occurred.

The proposals in resolution 32/130 for human rights questions to be examined globally, taking into account both the over-all context of the various societies in which they present themselves, as well as the need for the promotion of the full dignity of the human person and the development and well-being of the society, will be borne in mind in the operation of the Commission's communication procedures.

The procedures provide a recourse for individuals and groups in any country wishing to protest against alleged violations of human rights. The vast majority of communications received relate to the particular concerns of individuals and small groups of persons, and most will not be seen to reveal a consistent pattern of gross and reliably attested violations - and, therefore, most will not come before the Commission for consideration in closed session. Nevertheless, all communications should be treated with due seriousness. Consideration could be given to the suggestion (para. 31, E/CN.4/1273) that the replies of governments should be made available to the authors of communications in the event that governments give their consent.

As regards situations where there is evidence of "a consistent pattern of gross and reliably attested violations of human rights", the Commission, under the "1503" procedures, has clear responsibilities. Resolution 32/130 endorses the need for the international community to accord priority to the search for solutions to the mass and flagrant violations of human rights of persons and peoples affected by a range of situations such as those resulting from apartheid, etc. - those situations listed in the resolution are, of course, not exhaustive of the full range, and in terms of the effective operation of the procedures it is not possible to predetermine what situations might arise which could give cause for communications to be considered under the Commission's procedures.

In relation to the functioning of the machinery concerned with the application of ECOSOC resolution 1503 (XLVIII), the following comments are offered for consideration:

(i) It is important for members of the Commission to examine the machinery envisaged in ECOSOC resolutions 1235 (XLII) and 1503 (XLVIII) so that the nature and extent of action which may be taken under them may be more clearly established. This matter has not been fully explored, essentially because of the limited nature of action so far taken under these resolutions. One question is the manner in which action is under the 1503 procedures is to be brought to the attention of other United Nations bodies.

(ii) Members of the Commission have insufficient time to consider the documentation presented in closed session. Consideration should be given to ways and means of having documents made available earlier.

(iii) Consideration might be given to permitting States which are the subject of these procedures, but which are not Members of the Commission, to attend throughout the discussion of their cases.

(iv) Discussion in open session, under appropriate agenda items, in relation to situations in particular Member States should not be ruled out by the commencement of closed session discussion. The open session work of the Commission, in pursuit of the Commission's objectives, should not be inhibited by the confidential procedures so long as the open session activity is not clearly prejudicial to the outcome of the closed proceedings.

The experience of the Commission in giving consideration to communications has made clear the fundamental importance of States providing an effective remedy for violations of human rights. A key element in the Commission's consideration of communications is the question as to whether all available means at the national level have been resorted to and exhausted.

Australia has welcomed the recent successful drafting of new procedures within UNESCO for the handling of communications relevant to the work of that organization.

(ii) Fact Finding and Investigation Procedures

The review and possible strengthening of the Commission's fact-finding and investigation procedures is an important aspect of the over-all analysis of alternative approaches and ways and means of improving the effective enjoyment of human rights. In order that the Commission's work may be conducted in a fair and effective manner, it is essential that the information it receives be as objective and comprehensive as possible.

The contribution of Non-Governmental Organizations to United Nations discussion on human rights matters has been of considerable value. The value of such information as may be supplied will, of course, in all cases depend on its accuracy and impartiality.

In the light of the emphasis in resolution 32/130 on the over-all context of societies, action by the Commission has to take into account a clear perspective of the situation in the country under question. The method of self-reporting in the implementation procedures of the various international human rights instruments gives governments the opportunity to put on record the background to apparent or alleged violations. There is also opportunity to set out the reasons for recourse to permissible derogations from certain provisions of such instruments. It is noted that a number of explanations have in fact already been put before United Nations bodies.

In the case of situations which manifest gross human rights violations, there is the already proven value of ad hoc working groups or special rapporteurs, particularly when an on-the-spot investigation can be made. Mention should in particular be made of the work of the Ad Hoc Working Group of Experts on southern Africa and the Ad Hoc Working Group on Chile; there has more recently been a decision by the Sub-Commission on Prevention of Discrimination and Protection of Minorities to request the Chairman of the Sub-Commission to nominate a rapporteur to report on Kampuchea to the thirty-fifth session of the Commission.

Given the need in each case to enlist the co-operation of the State in which human rights situations appear to require investigation, it is unlikely that there can be an institutionalization of standard procedures. Situations vary, and the form which visits and investigations might take will be related to the needs of each situation. However, the precedents and guidelines which have already been established will be valuable to the Commission and the Sub-Commission in their future work.

(iii) Periodic Reports under ECOSOC resolutions 1074C (XXXIX) and 1596(L)

In due course further decisions will have to be taken on the consequences for this system of reporting in the light of other reporting procedures which have come into effect since the adoption by ECOSOC of resolutions 1074 (XXXIX) and 1596 (L).

E. METHODS OF WORK OF THE COMMISSION

(i) Grouping and Scheduling of Items

In 1978, the Commission benefited considerably from the Bureau's decision to group various items for simultaneous consideration. In hoping that procedures can continue to be improved, it is noted that the Commission has on many occasions failed to deal satisfactorily with a number of items on its agenda.

(ii) Duration, frequency and planning of sessions

In view of the frequency of comment on the inadequacy of the amount of time at the disposal of the Commission, the lengthening of annual sessions of the Commission to six weeks would be welcomed by Australia though it is doubted whether two annual sessions would be justified. It would not be considered desirable to divide the annual sessions formally into two three-week sessions along the lines of economic, social and cultural rights on the one hand and civil and political rights on the other. Both sets of rights are of unquestioned and fundamental importance, but it may be that neither would benefit from a formal separation in terms of the Commission's agenda.

(iii) Intersessional activities by the officers of the Commission

The Commission's effectiveness in the protection and promotion of human rights is most pronounced at the time of its annual sessions and for a short period when ECOSOC is considering the Commission's annual reports. The absence of procedures to enable the Commission, or representatives of the Commission, to take action as situations arise during the year may be seen as a serious shortcoming in the over-all effectiveness of the United Nations in the human rights area. Consideration could be given to the possibility of intersessional activity in relation to situations which appear to reflect gross violations of human rights or in the event of particular questions arising in relation to the drafting of human rights instruments. In the long term, Australia would welcome the establishment of some form of formal mechanism by means of which the Commission could respond promptly to evidence of gross violations of human rights.

II. EXISTING AND NEW INSTRUMENTS IN THE FIELD OF HUMAN RIGHTS

The Australian Government has welcomed the entry into force over the years of successive international human rights instruments. The Universal Declaration has been a major source of inspiration in this process, and the entry into force in more recent times of the International Convention on the Elimination of All Forms of Racial Discrimination; and the two International Covenants have been major landmarks in the international debate on human rights, as have been the Committees established under the

terms of such instruments. The Australian Government has ratified the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Economic, Social and Cultural Rights and is working towards ratification of the International Covenant on Civil and Political Rights. While Australia has not lodged declarations or ratifications in relation to provisions in certain instruments enabling individuals to submit communications, the intent of Member States in drafting such provisions is fully recognized.

The existing array of international instruments is an impressive one, reflecting firm international devotion and commitment to the promotion and protection of standards and principles. The marked increase in recent years in the range of human rights machinery at the disposal of the international community indicates a growing international consensus on the need for the United Nations to continue to move forward in the human rights area. There is now a need for further action on proposals which have not yet come to fruition. Among these are the proposed Convention on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 32/ and the proposed Convention on the Elimination of Discrimination against Women (General Assembly resolution 32/136).

It is acknowledged that the drafting of international instruments will be a slow and exhaustive process, but the momentum which has developed in recent years suggests that the international community wishes to press ahead towards new instruments covering or better covering areas perhaps neglected or not well enough emphasized in the past. The establishment of new standards must, however, take fully into account the capacity of the United Nations to promote and protect the rights which are under study.

III. ESTABLISHMENT OF NEW BODIES

(i) High Commissioner for Human Rights

Australia co-sponsored the proposal for a High Commissioner for Human Rights (A/C.3/32/L.25 Rev.1) at the thirty-second session of the United Nations General Assembly and has noted the Decision of the Third Committee to transmit the proposal and all documents related to it, as well as the opinions advanced in the course of the debate on the proposal, to the Commission on Human Rights to be considered in the course of the over-all analysis.

The proposal for the creation of the post of United Nations High Commissioner for Human Rights is one approach to improving the effective enjoyment of human rights within the United Nations system. It is recognized that it is a controversial proposal and that it does not at present appear to have sufficient support among Member States to enable its adoption. However, it does remain an important attempt to come to grips with the need for an improvement in United Nations machinery and procedure. Other proposals have also been put forward, including suggestions that a United Nations Secretariat position of Under-Secretary-General for Human Rights and Humanitarian Affairs be established; or a human rights "Co-ordinator".

The machinery that has been established following the entry into force of the International Covenants and various Conventions has been a welcome development, as has been the continuing refinement of the Commission's communications procedures. However, if human rights questions are to be considered globally, if the relationship between economic, social and cultural rights and civil and political rights is to be better appreciated, in the light of the experience of both developed and developing countries, if the rights of individuals and peoples are to be fully realized, if the

United Nations is to be responsive to situations where gross breaches of human rights appear to have occurred, then Member States must be prepared to invest greater confidence in the United Nations by strengthening its capacity to deal with these questions. The form of machinery leading to the improvement within the United Nations system of measures for the more effective enjoyment of human rights will clearly need to evolve over time. But it is clear that the results of the over-all analysis would be incomplete if the identification of priorities and perspectives on human rights questions did not carry with it a consideration of ways and means of strengthening the United Nations machinery, including the possibility of establishing new bodies, such as, perhaps, the Office of United Nations High Commissioner for Human Rights.

(ii) Regional Arrangements for Promoting Human Rights

In principle, Australia supports consideration being given by the United Nations to furthering the promotion of human rights through regional arrangements. Moves to establish regional arrangements in any region where no formal arrangements now exist should, however, come from within the region itself. The effectiveness of regional arrangements would depend on the wishes of the States concerned, and their willingness to identify areas of common concern. Uniform approaches to the setting up of regional arrangements are not possible.

There may be scope for existing regional bodies to play a role in increasing public awareness of United Nations standards and principles. As well, the proposal in resolution 32/130 for account to be taken of the over-all context of various societies, could perhaps be developed at regional levels. There may be value in the promotion of activities, such as seminars on topics of regional interest and also exchanges of experts, law enforcement officials, social workers, etc.

IV. PERIODIC REPORTING SYSTEMS OUTSIDE THE FRAMEWORK OF THE COMMISSION ON HUMAN RIGHTS

No comments are offered under this heading, but it is noted that ECOSOC and the Commission on Human Rights have had under study the question of how best to deal with national reports under the International Covenant on Economic, Social and Cultural Rights.

V. ROLE OF THE SECRETARY-GENERAL

The good offices role of the Secretary-General in the field of human rights is a most important piece of United Nations machinery. Secretaries-General have sought to use it with the utmost care and discretion. Resort to suggestions that the Secretary-General consider using his good offices role should be restricted to critical cases, when it should be used to full effect.

VI. PROGRAMME OF ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Suggestions for widening the scope and effectiveness of the human rights advisory services programme could usefully be considered in the context of the Commission's over-all analysis. Any significant extension of the programme would, of course, require the allocation of additional funds and staff. Australia would be sympathetic to well defined proposals along these lines.

VII. INFORMATION AND EDUCATION IN THE FIELD OF HUMAN RIGHTS

Australia considers that more attention should be given to information and educational activities as a means of improving the effective enjoyment of human rights. This has been a most important theme guiding the commemoration of the thirtieth anniversary of the Universal Declaration. Such activities should be designed to enable individuals and peoples throughout the world to be more aware of the human rights and freedoms to which they are entitled.

As a first step it would be desirable to see more resources allocated by the United Nations to the translation and dissemination, in as many languages as possible, of the basic human rights instruments, including the Universal Declaration. The work of the various United Nations bodies concerned with human rights also merits enhanced publicity. In particular, it would be desirable for the activities of the Commission, and the Sub-Commission, to be made more widely known. Consideration might be given to the production by the United Nations of video tapes of Commission sessions for world-wide distribution. Member States could also be encouraged to publicize their involvement in the Commission's work and to publicize the work of the Commission, and other United Nations bodies, on human rights standards and principles.

Information provided by Member States on their implementation of United Nations instruments, and the reports of bodies such as the Committee on the Elimination of Racial Discrimination and the United Nations Human Rights Committee, receive and warrant publicity. Beyond this, however, there may be scope for Member States to disseminate information on their approaches to the realization of human rights in relation to United Nations human rights instruments, resolutions, seminars and studies.

VIII. CO-OPERATION AND CO-ORDINATION IN THE UNITED NATIONS SYSTEM AND WITH OTHER INTERNATIONAL ORGANIZATIONS IN MATTERS OF HUMAN RIGHTS

Recommendations for improving co-operation and co-ordination in the United Nations system in the area of human rights will be an important long-term outcome of the Commission's over-all analysis. Australia would like to see this question receive a degree of priority, but the elaboration of recommendations will necessarily depend very much on the amount of information available to the Commission on the activities of other United Nations bodies and international organizations concerned with human rights. The question of "co-ordination" will doubtless prove to be a highly complicated one. To the extent that resolution 32/130 gives the Commission a mandate to report on alternative approaches "within the United Nations system", the Commission can consider itself to have been given an ad hoc task beyond its own specific terms of reference. It is thus to be hoped that sufficient information will be before the Commission at its thirty-fifth session, in response to paragraph 3(b) of the Commission's resolution 26 (XXXIV).

ANNEX A

EXTRACT FROM STATEMENT DELIVERED IN THE UNITED NATIONS
GENERAL ASSEMBLY (THIRTY-SECOND SESSION), 28 SEPTEMBER 1977,
BY THE AUSTRALIAN MINISTER FOR FOREIGN AFFAIRS,
MR. ANDREW PEACOCK

If any one thing has characterized international affairs in the last year it has been the unprecedented and very significant attention given to the question of human rights. This has not developed suddenly and unannounced. It is a response to forces which have been at work over a period of years. Among these are: the articulate demand in Western societies over the last ten years for a foreign policy which specifically reflects democratic and liberal values; the Third World's stress on human rights in its fight against apartheid and its demand for a New International Economic Order; and the sustained, eloquent and courageous effort by oppressed people in many countries to draw the world's attention to their plight. Together these seem to indicate the likelihood of a trend towards a greater stress on the moral dimensions of international politics in general and human rights in particular.

Australia takes its human rights obligations seriously. Our election to the United Nations Human Rights Commission in May of this year gives us an additional reason for doing so. The question of human rights is too important a matter to be dealt with in terms of rhetoric and gesture; too important to be subordinated to political manoeuvre or made a matter of public relations. It is related in the most direct way to questions of human suffering, human dignity and freedom. If we cannot take it seriously, we would do better to stop talking about it at all.

There are very difficult problems to be worked out. The problem of selectivity on the part of Governments, or for that matter, of special interest groups in expressing concern about human rights is one of them. Such selectivity is not necessarily evidence of cynicism, though it is often advanced as such. Given that governments have a multiplicity of responsibilities, it is inevitable and proper that their commitment to human rights be balanced against other valid commitments. These include not only a concern for the national interest but, in the case of the great majority of governments, the promotion of international peace and order. The tension between the promotion of human rights and maintaining détente between the superpowers, for example, is not an artificial, trumped-up thing; it really exists, and it presents hard choices. Such choices involve not merely the weighing of human rights considerations against those of "realism", though that is often unavoidable. Sometimes they involve weighing human rights against other goals - peace, international order, national cohesion - which also represent moral values, and sometimes these other goals will prevail. The fact that they do is evidence not of cynicism or hypocrisy, but of the essential nature of moral choice.

The problem of the different meanings and priorities given to human rights in different cultural, social and political contexts is an extremely important one. Given our geographic position, we in Australia have a lively sense of this. What, for instance, is the proper relationship of civil and political rights to economic and social rights? Is it the case that economic rights are in some sense more fundamental than political rights, as some governments maintain, or is the relationship more variable, ambiguous and complex than that? There is evidence, both in the form of behaviour at elections and in the form of political protest movements, which suggests that people are not indifferent to political rights, even when they lack economic rights.

Again, what is the relationship between individual rights, which are the ones classically stressed in Western thinking, and collective and group rights, often stressed by the Third World?

And again, how should the existence of real internal threats to civil order and peace within a country influence our expectations concerning respect for human rights? Should we expect the same standards of behaviour from a Government under the pressure of such threats as we expect from a Government having the good fortune to enjoy an essentially peaceful and orderly domestic situation? Is there a legitimate distinction to be made between Governments whose problems are largely of their own making and ones which have inherited deep-set structural and cultural problems?

All these are extremely difficult questions. They are made more difficult by the fact that sometimes good arguments are misused and misapplied. But if the concern for human rights is going to find expression in practical, effective terms, and not be relegated to the sphere of utopian aspirations, they are questions which demand our attention.

No situation in the world illustrates more forcefully the importance of the issue of human rights than does that in southern Africa, where the systematic neglect and violation of those rights has created an explosive state of affairs. Australia's attitude to the imperative issues of human rights which still remain to be resolved in southern Africa was forcefully expressed by the Prime Minister, Mr. Malcolm Fraser, at the Commonwealth Heads of Government meeting in London in June.

More recently I had occasion, as leader of the Australian delegation at the World Conference for Action against apartheid, to make very clear our stand on that issue and to survey the practical measures we have undertaken in respect of it. At Lagos, as earlier at Maputo, there was an impressive degree of consensus on the problems - and on the consequences of not resolving them.

EXTRACT FROM STATEMENT DELIVERED IN THE UNITED NATIONS
GENERAL ASSEMBLY (THIRTY-THIRD SESSION), 6 OCTOBER 1978, BY
THE AUSTRALIAN MINISTER FOR FOREIGN AFFAIRS, MR. ANDREW PEACOCK

In my address to the thirty-second session of the General Assembly, I drew attention to the dilemma governments face in weighing commitment to human rights against other critically important concerns - including commitments to international peace and order and to national cohesion. Events during this past year have illustrated the difficulty, to which I then referred, of protecting the rights of individuals while also working for progress in detente. The international community is being brought to accept that in cases such as this pursuit of one objective should not exclude the other.

The reconciliation of what is principled with what is practical has never been easy. Bilateral and international responses to human rights situations must evolve over time, and responsible experimentation will be required. As a starting point, the United Nations must uphold the provisions of the Charter and the Universal Declaration of Human Rights. The United Nations must inspire confidence that it is prepared to promote basic human rights and provide the framework for responsible action by governments in situations where difficult choices may have to be faced.

Action by the United Nations should, of course, promote and not prejudice the observance of human rights. We must always bear in mind that the objective is not to strike attitudes but to improve the conditions of individual men and women. Care must be taken to avoid addressing situations in such a manner as to place at risk other valid objectives of the world community. Private persuasion can be most effective. The unobtrusive work of the United Nations Commission on Human Rights provides a good example.

As Member States of the United Nations, we must continue our search for means and mechanisms to effectively promote and protect human rights. Australia welcomed the adoption by this Assembly last year of Resolution 32/130. We believe that there is a growing public expectation that the United Nations should be able candidly to consider situations where gross breaches of human rights appear to have occurred. The United Nations must also be seen to stand firm on the rights of the individual within the context of agreed international instruments.

The international community must have confidence that the organization can provide workable multilateral procedures, equally applicable to all, and equally available to all. The United Nations should act, in the human rights area, without over-rigid adherence to restrictive interpretations of Article 2(7) of the Charter. If it could be established that the purpose of such multilateral procedures was to consult and not simply to condemn, to work for improvement, not for impeachment, then a great step would have been taken in achieving a principal objective of the organization.

The working group visit to Chile has established a most important precedent, an approach which might be repeated and refined in other cases. We could also seek alternative means of enlisting the co-operation of States where human rights situations appear to require investigation. We might seek to enlarge upon the method of self-criticism and self-reporting inherent in the implementation procedures of the various international human rights instruments.

But no matter which possibilities we pursue and what priority we give to them, we are required by recent circumstances to recognize that the United Nations must now deal with human rights issues in a fair and practical way. If not, we shall see its claims to moral authority eroded year by year. We are particularly conscious of this now as we commemorate the thirtieth anniversary of the Universal Declaration of Human Rights.

ANNEX B

STATEMENT IN THE HUMAN RIGHTS COMMISSION, THIRTY-FOURTH SESSION (1978), BY AUSTRALIAN REPRESENTATIVE, MR. OWEN DAVIS

Under this item we are discussing the approach of the United Nations to the further promotion of human rights and fundamental freedoms. My delegation joins with all others in emphasizing the importance of our task. As a preface to my statement today, I should like to recall that the Australian Minister for Foreign Affairs included in his General Debate statement at last year's General Assembly a lengthy section on some of the questions we are trying to grapple with in the Commission. In that statement he emphasized that these questions are extraordinarily difficult ones.

We embark upon the analysis conscious that the diversity of the approaches to human rights of the various Member States has become more apparent over the last few years.

Views have been put more frankly on record than in the past, but regrettably progress by the Commission has been very slow both in setting new goals for its work programme and in finding effective new ways of promoting human rights.

It is hoped that the task that has been passed to this Commission by Resolution 32/130, which my country supported, will in due course make a significant contribution both to the setting of new goals for its work programme and to the establishing of new means for promoting human rights.

It will be difficult for this Commission, or the United Nations as a whole, to make progress in the field of human rights until there is a better mutual understanding of the diverse points of view of Member States, and until the differing philosophies on human rights move closer together. If these objectives could be achieved, the finding of effective ways to promote human rights would become a much simpler task.

Because we believe that the overall analysis which Resolution 32/130 has entrusted to us, with all its implications for the well-being of humanity, should be carried out seriously and thoroughly, we consider that it will require detailed study. With this in mind we believe, because human suffering will continue, the Commission should not halt or delay other important work or improvements to the machinery while the analysis proceeds.

How then can we best approach the overall analysis?

I believe that you, Mr. Chairman, have in your opening statement given us a very valid lead in suggesting that we should not regard the Commission as another General Assembly, that we should avoid polemics and look forward to achieving concrete results.

All Member States seek to improve the well-being and meet the basic needs of their people. This reflects the fundamental human desire to enjoy the rights as set out in the Universal Declaration, consolidated in the Proclamation of Tehran, and made more specific in the obligations which have been acknowledged by those countries which have ratified the wide range of instruments relating to human rights.

Thus each individual wishes to be allowed to live in peace without the hazard of arbitrary denials of his freedom or injury to his person, with freedom to learn, to express his thoughts, to communicate with others, to adopt or reject religious or political beliefs, to work, to have the basic economic and social needs of life - food, shelter and education - to join with others in associations; to have his individual dignity respected; to be free from discrimination of any kind.

The most recent attempt by the United Nations to take a step forward in its conceptual approach to the various strands of the human rights debate resulted in the adoption last year by the General Assembly of Resolution 32/130. My delegation accepts the central thesis of that resolution that economic, social and cultural rights on the one hand, and civil and political rights on the other should be accorded equal attention. The full enjoyment of the one is not possible without the full enjoyment of the other.

My delegation believes that the integrity of all human rights should be protected. There are of course qualifications built into the international instruments: some rights are subject to restrictions or are limited in circumstances where they interfere with other fundamental human rights and freedoms. Certain rights however - such as freedom from torture - may be said to be subject to no such limitations or restrictions.

One approach to the different categories of human rights is to argue that civil and political rights are of a different order from economic and social rights. It is thus considered that civil and political rights are universal in their application, are more capable of precise definition, more capable of being given a legal connotation and therefore more capable of being made enforceable as legal rights; whereas economic, social and cultural rights are more difficult to define in legal terms and are in some cases not universal in their applicability. Moreover some are less capable of enforcement not only because they generally place emphasis on state obligation rather than on a directly enforceable individual right, but also because they may depend substantially on the level of economic development of the State in which the right is claimed. This is not to say that economic rights as set out in the instruments are not of fundamental importance. In the sense, of course, that economic rights denote the right to the benefits of economic development there can be no disagreement.

Moreover we believe that those of the economic and social rights which are less well-defined or not immediately capable of fulfilment or enforcement may be regarded as inchoate rights and that states and individuals have an obligation to seek to establish them as full rights. Article 2 of the Covenant on Economic Social and Cultural Rights itself states that "Each State Party undertakes to take steps with a view to achieving progressively the full realization of the rights ...".

We believe that the individual cannot fully enjoy civil and political rights unless he at the same time has the basic economic and social rights. But the absence of the full realization of one set of rights does not mean that the other can be disregarded.

As you have said, Mr. Chairman, a man dying of starvation or a man dying from torture is still a man dying. If he is dying of hunger the priority task is to bring him food - if he is dying of torture the priority task is to prevent the torture.

In pursuing our common commitment to the realization of all human rights, it is argued that there needs to be a differentiation between the domestic obstacles to their realization and external obstacles. Some hold the view that the main task is to find the appropriate procedures and sanctions to prevent violations. Others take the view that priority must be placed on analysis of the causes of such violations. Both these approaches are valid. Let me only say that there are many instances in which fundamental rights and freedoms have been maintained in the most adverse circumstances. They are of course helped in this if there are laws through which such standards are defined and implemented.

Finally I should like to refer very briefly to the philosophic and legal questions of whether human rights are moral values or moral rights, or whether they are a set of international standards or values, or finally whether they represent legal rights with corresponding duties recognized in international law.

This is a field in which much diversity of opinion can be expected. Differences will stem from varying national approaches, ideologies, religious or cultural backgrounds.

It is, however, an important aspect of the analysis for a variety of reasons, but not the least because it has a bearing on the nature of the choice of procedures which might be considered appropriate where there are breaches of human rights.

We believe that human rights, having historically had their origin in the needs and demands of people, and having been supported by arguments based on their moral validity, have acquired additional attributes as internationally recognized standards or values. In addition, through the combined effect of international usage and of the Preamble and Articles 1, 55 and 56 of the Charter of the United Nations, the Universal Declaration of Human Rights, the two Human Rights Covenants and the various Treaties in the field, they have acquired an international legal status as rights.

A major difficulty lies in the question of the capacity of the international community to deal with breaches of human rights, or the method of enforcement if that is to be considered feasible in the international sphere.

Methods have been devised to provide for legal enforcement or the application of penalties by giving jurisdiction to the courts of States to handle breaches of some human rights. There is no consensus yet on a generally appropriate means of doing this. It may indeed need to vary.

More difficult is the question of the best method to deal with breaches of human rights committed by States as a matter of government policy. Should there be an international court for this purpose? Should it be a question of bringing to bear on that State the pressures of world public opinion? How should non-governmental organizations best play their role? Should United Nations bodies publicly criticize or condemn such breaches? How should United Nations bodies seek to persuade the State in default to mend its ways? Should the United Nations study, analyse and report on the situation? Should individual Member States of the United Nations take unilateral action to apply economic measures? Should individual Member States apply persuasion or moral pressures? Is it preferable that regional groups of States should take the appropriate action?

Present practice and present machinery leads to the use of a variety of these methods. Some have produced an improvement in the situation, some have not yet been effective. There seems to be no clear cut answer and no general rule seems likely to emerge. A combination of methods adapted to the circumstances in a pragmatic manner may be the answer. We believe, however, that not enough consideration has been given to the need for wider acceptance of the point of view that breaches of human rights, and especially gross breaches by States in denying the basic demands and needs of the people, should be seen as creating tension, friction and the potentiality of violent reaction which is in the long run contrary to the real interests of the government committing the breaches.

Mr. Chairman, we have put forward more questions than concrete proposals. Perhaps at this stage of our analysis this is the best course.

BELGIUM

[Original: French]

[8 November 1978]

In view of the wide range of problems involved, the Belgian Government wishes to submit its comments in four parts. The first part refers to resolution 32/130. The second part concerns the situation with respect to the norms governing human rights within the United Nations and certain prospects for the development of these norms. The third part deals with the question of the implementation and monitoring of the application of these norms.

The fourth part is concerned with the teaching of and dissemination of information on international law relating to human rights.

I. RESOLUTION 32/130

In the opinion of the Belgian Government, resolution 32/130 came at the right time. Thirty years have elapsed since the adoption of the Universal Declaration of Human Rights. During this period, the United Nations has considerably developed international law relating to human rights. It has extended the competence of the bodies which it has established or which were set up by the Charter to cover all spheres of human activity commensurate with its international development, including those in the field of human rights. It has set up or has helped to set up various mechanisms and procedures intended to deal with various aspects of human rights. Resolution 32/130 enables States as well as the Commission on Human Rights to take stock of the situation with respect to human rights matters and to outline some future prospects. Subject to the comments made on behalf of the nine Member States of the European Community at the time of the adoption of resolution 32/130, the Belgian Government is generally in agreement with the principles set out in the resolution. Some refinements could, however, be introduced with advantage. Lastly, it should be noted that resolution 32/130 cannot, in the nature of things, fully cover all aspects of human rights. Nor is the Belgian Government able to give its views on this matter fully. Remaining within what it believes to be the spirit of the resolution, the desire to carry out in the United Nations an over-all assessment of human rights, it would encourage a study of the question going, where necessary, beyond the letter of resolution 32/130.

II. THE NORMS

The United Nations has done a substantial amount of work in the elaboration of international law on human rights. The compilation published by the United Nations under the symbol ST/HR/1/Rev.1 contains no less than 50 instruments covering different areas. These instruments in fact provide for the application, sometimes in accordance with very detailed procedures, of the Universal Declaration, which contains practically all of them in essence. The Belgian Government considers that the establishment of law as a whole has now reached a satisfactory level, since all the basic rights have been defined. This does not, however, mean that all normative activity within the United Nations has been completed with the development and application of certain fundamental rights and the adaptation of the meaning given to certain rights to development and the progress of mankind.

Nevertheless, the Belgian Government wonders whether much does not remain to be done in relation to the law which has been established. In order to ensure the more widespread enjoyment of human rights and their specific and coherent

application, an effort might be made towards the structured codification of that law, passing from the general to the particular, distinguishing between basic rights and ways of exercising those rights, and stipulating their interdependence and indivisibility, while at the same time highlighting the characteristics inherent in certain classes of rights in order to ensure their best possible application. This structuring, which cannot however imply that certain fundamental rights are subordinate to others, might require the rationalization of some definitions in order to ensure their interaction.

(It will also be noted that some rights appear to be directly attached to the human person and to be independent, as normally exercised, of the social, economic and cultural framework within which individuals live. The right not to be subjected to torture and the right to non-discrimination are rights which exist outside all social systems, of whatever kind. Other rights imply an obligation on the part of the State not to infringe recognized rights, such as the right to freedom or the right to marry, but the State must be in a position to bring the exercise of these rights under a reasonable measure of control. Other rights again are necessarily associated with the existence of a socio-political system of a particular kind, in which they must be exercised in an appropriate manner through a structure which permits them to exist and be exercised. This relates in particular to almost all economic, social and cultural rights, the right to education and the right to social security, which require positive action by the State.)

Some formulations might appear to require greater clarity if they are to become applicable in practice in all circumstances. This applies to the rights of peoples, the application of which can be regarded as being quite clear in a few "privileged" cases but doubtful in some other circumstances.

Lastly, the starting point for the study requested of us should be the idea that different social systems can co-exist in the world, on the understanding that some basic factors which could constitute the foundations of a joint approach can be distinguished. These basic factors would be the absolutely fundamental rights of the human person deriving from his very existence. With this as the starting point, it might perhaps be possible to gain acceptance for the view that sociological, historical and economic concepts may have an influence on the application of human rights; this would be done with a view to keeping this area free of the polemics in which States of different structures and ideologies engage.

It would be wrong to allow absolute confusion to arise between problems of human rights and the socio-economic imperatives facing international society. The purpose of the latter is to ensure that all States in the world can enjoy adequate economic development. Certainly, they may as a result enable human rights to be applied satisfactorily, and this presupposes that the State establishes structures which ensure that the individual will exercise full enjoyment of these rights. But while this concept is incontestable, it cannot serve as an absolute pretext for the non-respect of fundamental rights which are either not associated with the stage of development or are the best guarantees of development - including the development of industrialized countries for the benefit of all.

III. MECHANISMS OF APPLICATION AND CONTROL

The Charter provides for international co-operation for the purpose, *inter alia*, of the promotion of and respect for human rights. The main and basic thrust of the United Nations efforts to achieve this end has been towards the elaboration of international norms governing human rights. The prime responsibility for the application of these norms lies with each State, and it may be supposed that each

State will assume this responsibility in good faith. However, since these norms have been established by joint agreement among groups of States, if not among all States, it is logical that they should be applied in as uniform a manner as possible by States committed to them. To ensure maximum co-operation for this purpose, States have set up international machinery to help them achieve this goal. As is logical in relation to rules of law, this machinery covers both the incorporation of international law into domestic law and the specific application of that law, for which an internationally coherent jurisprudence must be established. The different systems of reporting cover the first of these functions, while the various systems for the consideration of communications should cover the second. In both cases, what is involved is co-operation between States through mechanisms whose objectivity and legal stringency should ensure the collaboration they desire.

The United Nations, however, has not stopped at co-operation. When a particular State has committed flagrant and massive violations of certain human rights, the United Nations has repeatedly expressed its concern and taken various measures similar to control measures. In addition to certain ad hoc measures, the procedure laid down in Economic and Social Council resolution 1503 (XLVIII) is certainly the most striking example. Such measures should be "objectivized" as far as possible in order to avoid a situation in which, de facto, they are applied solely to States which have been made more vulnerable by various temporary circumstances.

*

* *

The various systems of reporting on the implementation of human rights are set out in conventions (the Covenants, the International Convention on the Elimination of Racial Discrimination, etc.) or worked out by United Nations bodies of more general competence (Commission on Human Rights). The reports come from States which are both judges and parties in the matter vis-à-vis the persons entitled to the rights concerned. They set out considerations concerning the legislative or administrative implementation by States of binding and non-binding international instruments, seen in the light of the guidelines laid down by the competent committee.

Control, as we understand it, is of course exercised over the conformity of national law with the binding rules of international law which exist in relation to the specific cases, but it also exists over the specific application of existing national and international law to factual situations. It therefore forms part of a quasi-judicial or judicial procedure, with a system for the examination of complaints of violations of human rights.

This distinction in the implementation of human rights immediately suggests the idea that a distinction should henceforth be made within the bodies which deal with that implementation: they have a (quasi) legislative and a (quasi) judicial function, and it might be thought that this could be better reflected in both the structure and the membership of these bodies.

There are a great many bodies in the United Nations which deal, in one way or another, with the implementation of human rights. Their terms of reference, membership and manner of operation vary.

It should be noted that there is, in fact, no organic link between these various bodies, so that there is no exact delimitation of their spheres of competence.

In carrying out their control function, some of these bodies, by their very nature and membership, undertake a general and political consideration of situations existing in the world, including those which have a bearing on human rights. This applies to the General Assembly and the Economic and Social Council; in particular, it applies to the Commission on Human Rights. Other bodies have been given quasi-judicial tasks, although these tasks have no binding force. In this category, terms of reference may overlap, depending on the rights under consideration, so that communications may, in some cases, be addressed to various organs at the same time. The question of whether recourse to one of these bodies excludes simultaneous or subsequent recourse to another has not yet been wholly settled. As a result of this overlapping of recourse and of competence, divergencies in interpretation and in solutions may appear. This category includes, for example, the committees set up under various conventions, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, and the Commission on Human Rights in their functions under Economic and Social Council resolutions 728 F (XXVIII), 1246 (XLIII) and 1503 (XLVIII), and the UNESCO and ILO bodies responsible for implementing the procedures for the consideration of communications submitted to those specialized agencies.

In addition to these structural problems there is the question of the extent to which those human rights which are agreed to be universal are nevertheless capable of differentiated application depending on the socio-cultural and political stratum, which varies from one region of the world to another; this could imply a form of regionalization of their control and would raise the problem of the relationship between regional and world-wide bodies.

The Belgian Government therefore wonders whether a study is not urgently needed on the most practical solutions which would lead to a harmonization of competence, both in standard-setting and in control, so as to avoid duplication in reporting systems, divergencies of interpretation in the legislative and administrative implementation by States of norms of international law, uncertainties concerning recourse procedures and the possibility of solutions that may be divergent or differ in scope.

Similarly, consideration should be given to the manner in which procedures could be improved so as to enable bodies to perform all the tasks allotted to them within a reasonable time, without sacrificing any aspect of those tasks. In this connexion, the establishment within these bodies of specialized "divisions" which could meet to discuss matters of common interest is worth considering, as is the establishment of appropriate permanent or quasi-permanent machinery for preparatory work and for the adoption of conservatory or ad referendum decisions.

These measures could lead to the progressive establishment, on the basis of existing bodies, of an over-all structure having a single set of rules of procedure and machinery for the delimitation of competence. In such a structure, the membership of bodies would tend towards the best possible representation of the various judicial systems existing in the world, both - for the normative function - by lawyers who could, in their own countries, assume high-level legislative tasks, and - for the control function - by lawyers who could, also in their own countries, exercise important judicial functions.

In this general and long-term context, consideration may be given to the role of new institutions. The Belgian Government considers that the question of the establishment of a post of High Commissioner for Human Rights should be examined in this light. This new institution would only be justified if it was capable, or likely to become capable, of playing a functional role within a coherent over-all framework.

The concept of regional machinery for the protection of human rights should also be seen in this light. At the present time, such machinery only exists in Europe and the Americas. Unless they possess powers and competence similar to those of the existing machinery, the regional mechanisms should be established as rungs in a ladder leading, at the top, to the United Nations machinery. Existing regional machinery should be encouraged to follow a jurisprudence as close as possible to that which might be developed in the United Nations. In the long term, it should be incorporated into a world-wide judicial system which still has to be worked out.

IV. RESEARCH, INFORMATION AND EDUCATION

The Belgian Government considers that human rights are fully enjoyed only to the extent that each citizen has the opportunity to become aware of their scope and competence. It is therefore endeavouring to ensure the provision of broader information on human rights at all levels of instruction and is encouraging all measures capable of making these rights better known to the public. It encourages people to think about human rights, both in Belgium and in international circles. For example, it recently helped to finance an inter-African symposium on human rights. It considers that information and educational activities organized by the United Nations in this sphere should be continued and expanded, as should all measures capable of assisting and encouraging States in their own information campaigns.

CANADA

[Original: English]

[29 November 1978]

One of the principal reasons for the formation of the United Nations more than thirty years ago was a profound concern for human rights. Convinced that it was an essential and legitimate concern of the international community, the delegates who drafted the United Nations Charter included in Article 1, as one of the fundamental purposes of the organization, the promotion of respect for human rights and fundamental freedoms. It has been argued on occasion that the concern of the United Nations and its member states when human rights are violated constitutes interference in the internal affairs of the state in which the violations take place and is thus in contradiction of the terms of Article 2(7) of the Charter. However, through their adherence to the Charter and its fundamental objectives all members of the United Nations have recognized a right and obligation to be concerned. All members of the United Nations have thereby assumed an obligation not only to respect the human rights and fundamental freedoms of their citizens, but also to be concerned about violations of these rights wherever they occur. Indeed, those states which permit or cause gross violations create situations to which other states must react both in respect of their Charter obligations, and frequently to provide humanitarian relief to victims of the violations or refugees fleeing the country in question.

In pursuit of its mandate in the field of human rights, the United Nations concentrated initially on the enunciation of standards for the promotion of rights and freedoms. Since the adoption of the Universal Declaration of Human Rights in 1948, the standard-setting activities of the United Nations have concentrated on the further elaboration and codification of certain rights and freedoms, resulting in the adoption by the General Assembly of more specific declarations, conventions and instruments. More work is required in certain areas, for example, with respect to the question of torture, discrimination against women, religious intolerance, cultural freedom and freedom of information. Efforts also should be made to draft new instruments outlining the obligation of states to respect freedom of thought and expression, especially in the political field.

It is necessary at the same time, for the attention of the United Nations increasingly to be directed towards finding methods of ensuring that internationally accepted standards are respected in practice.

International standards have been established in many international conventions and resolutions of the General Assembly. Accordingly, they have been accepted in principle by virtually all states members of the United Nations. Nonetheless human rights and fundamental freedoms continue to be violated in many parts of the world, often on a massive and institutionalized basis. Where moral and legal obligations have not been met, it is the duty of the United Nations to turn its energies and attention towards ensuring that accepted standards are respected in practice and that obligations are discharged adequately and responsibly. Essentially there are three approaches available to the United Nations in its efforts to do so. It can monitor and draw international attention to human rights violations, play a mediating role and intercede on behalf of the victims of violations, and encourage respect for human rights through information and education programmes.

The objective of the current examination of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms must be to find methods of increasing the United Nations' capacity to effectively perform these three functions. In this examination careful consideration should be given to four areas of activity. These are: (i) the working methods, programme and mandate of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities; (ii) the organization of the secretariat and related support services for promoting and protecting human rights; (iii) the complementary activities of regional bodies concerned with economic and social questions; and, (iv) recommendations on measures which can be undertaken by states at the national level to promote human rights. In each of the aforementioned areas, there currently are difficulties which tend to hamper the full and effective operation of existing United Nations machinery, and which therefore merit review.

The Commission on Human Rights should be considered one of the most important bodies within the United Nations system. There can be no question that its contribution towards encouraging respect for human rights has been substantial and that it has been largely responsible for the development of numerous important standard setting international instruments on human rights. At the same time, however, the Commission has been restricted in its ability to respond to serious allegations of violations of human rights. In part, the Commission's inability to act effectively has been due to the reluctance of states members to make full use of its mandate, in particular Economic and Social Council resolution 9(II) of 21 June 1946. This resolution, which authorized the Commission to call in ad hoc working groups of non-governmental experts without further reference to the Economic and Social Council (but with the approval of its President), is a potentially valuable means whereby the Commission can establish investigatory bodies to review particular human rights situations. The Canadian Government wishes to see the Commission utilize this procedure whenever a public enquiry outside of the resolution 1503 (XLVII) procedures is warranted.

In part, as well, the Commission has been inhibited in other respects because of an unduly restrictive mandate. In the view of the Canadian Government the Commission's general sphere of activities no longer should be limited to framing proposals, recommendations and reports. Revisions to the mandate should be made to enable the Commission to act rapidly and effectively where there is evidence of flagrant, gross or persistent violations of human rights. In particular, the Canadian Government proposes:

- (1) that the Bureau of the Commission be empowered to meet when the Commission is not in session, to act on human rights situations requiring urgent attention; and
- (2) that the extra-session mandate of the Bureau include provision for making contact with states involved in allegations of violations of human rights, for the purpose of clarifying such allegations.

The Canadian Government recommends that the Commission discuss this issue at an early date, with a view to securing an appropriate authorization by the Economic and Social Council.

The Canadian Government is of the view that the work methods of the Commission have benefited in recent years from a series of reforms designed to enhance the utilization of time available during its annual session. The following concepts should continue to be used in framing the Commission's work programme:

- (1) that items involving related issues be grouped for the purposes of debate and consideration of draft resolutions;
- (2) that time remaining after the exhaustion of the speaker's list on a given item be used for the introduction of those items on which there has been little debate or on which the Commission has been unable to complete work at earlier sessions;
- (3) that the drafting of conventions or declarations be dealt with by special working groups meeting outside of the normal working hours of the Commission, or by extra-sessional working groups of experts;
- (4) that authorization be requested for extra-sessional working groups to discuss issues of special importance or necessitating more intensive deliberation.

However, while these reforms have increased the capacity and relative efficiency of the Commission, its annual five week session does not provide sufficient time for it to deal adequately with all of the many important matters on its lengthy agenda. Consequently, the Canadian Government believes that the Commission should be empowered to meet twice yearly, in a regular session of four weeks and a resumed session of two to three weeks. Furthermore, the Commission should be empowered to hold special sessions, when it decides that particular human rights issues require detailed consideration, or to call extraordinary sessions when situations requiring its urgent attention arise. The Bureau might be empowered to propose the convening of such extraordinary sessions when the Commission is not in session.

The Canadian Government is of the view that an increase in the size of the Commission would render its deliberations less effective and more difficult and complex. This would apply particularly to the process of drafting international human rights instruments which will remain an important function of the Commission for the foreseeable future.

The existing Sub-Commission on the Prevention of Discrimination and Protection of Minorities has two very important but different functions. The Sub-Commission devotes considerable time to the preparation of studies, reports and instruments on many important aspects of human rights. Although these are valuable and should be continued, the Sub-Commission's second function has even more importance with respect to the efforts of the United Nations to ensure that human rights and fundamental freedoms are respected. Under the procedures established by Economic and Social Council resolution 1503 the Sub-Commission examines communications received by the United Nations concerning violations of human rights in order to prepare reports on patterns of gross and persistent violations of human rights for consideration by the Commission. This is the only procedure whereby these violations are automatically brought to the attention of the Commission by an expert body. Despite some suggestions to that effect, it does not parallel the functions of the Human Rights Committee in the consideration of communications received under the provisions of the Optional Protocol to the Covenant on Civil and Political Rights, since those procedures are concerned with individual recourse, whereas the Economic and Social Council resolution 1503 procedures are concerned with patterns of violations and therefore general situations. In addition, the procedures established under the Optional Protocol operate only with respect to the relatively small number of states which have become party to it and the Economic and Social Council resolution 1503 procedures operate with respect to all United Nations member states. While both functions of the existing Sub-Commission must be performed

by groups of experts, the types of expertise required are quite different. The Canadian Government considers that if the existing Sub-Commission were to be divided into two separate bodies these could prove more effective and efficient.

The Canadian Government regards the functions performed by the Human Rights Committee established under the Covenant on Civil and Political Rights as potentially among the most effective instruments available to the United Nations for ensuring that human rights and fundamental freedoms are respected. Of particular importance are the procedures established by the Optional Protocol to the Covenant on Civil and Political Rights, since they provide international recourse to individuals who believe that domestic legal provisions have not been sufficient to protect their rights as enunciated in the Covenant. It should be noted that the performance of these functions entails an extremely heavy workload for the members of the Committee. At present sixty days of meetings are required per year, and if members are to be able to perform their role adequately, they require in addition considerable time for preparations. This workload will moreover increase both as more countries become party to the Covenant and the Optional Protocol, and as the opportunities the latter provides for individual recourse become better known. Consequently, it would be desirable to examine carefully the possibility of providing its members with increased financial support. In order to increase public awareness of the Committee, provisions should be made for the annual publication of a yearbook focused on its extremely important activities. A careful examination should be made of the existing United Nations publications on human rights to determine which resources could be re-allocated for this purpose.

The ability of the United Nations to fulfil its human rights mandate is related directly to the capacity of the Secretariat to service intergovernmental and expert human rights bodies. Consideration should be given to the adequacy of existing levels of Secretariat services provided to the various bodies. Particular attention should be directed to the level of services available to the Human Rights Committee and every effort should be made to ensure that the support available to it is sufficient to permit it to function effectively.

The Canadian Government is of the opinion that careful consideration should be directed towards possible methods of increasing the capacity of the United Nations system to intercede on behalf of those who are the victims of violations of human rights. In this regard, proposals for the creation of an Office of a United Nations High Commissioner for Human Rights are particularly interesting since the creation of such an office would significantly increase the capacity of the United Nations to perform a good-offices function with relation to human rights violations. Consideration also should be directed towards other possible methods of augmenting the frequency and effectiveness with which the United Nations system intercedes on behalf of victims of human rights violations. One possibility would be to encourage the Secretary-General to use his good offices to make contact on a confidential basis with states whenever allegations of gross, persistent, or flagrant violations of human rights are brought to his attention. In doing so, the Secretary-General could make use of special emissaries. Perhaps the duties of the Under-Secretaries-General and Assistant Under-Secretaries-General could be reorganized or a new position at an equivalent level could be created to enable a senior international public servant to be available at any time to perform such emissary functions and to improve co-ordination with the United Nations. In order to assist the Secretary-General consideration should be given to the establishment of a panel of individual experts familiar with a broad range of legal systems and cultures, upon whom he could draw for advice on the possibility, timing and form of any intercessions. The role of a High Commissioner or enhanced good-offices functions

for the Secretary-General would not duplicate the existing procedures for the receipt of formal communications. Rather, it should provide an apparatus whereby governments can be approached on a confidential basis in order to find ways of resolving situations in which serious violations of human rights are taking place.

With respect to activities at the regional level, the Canadian Government is of the view that regional instruments such as declarations and conventions can be a useful supplement to universal United Nations instruments, provided that they are not less rigorous in their application of accepted international standards, and that they are not inconsistent with obligations accepted by states members of the United Nations. In areas of the globe in which common traditions and cultures cross national borders, regional instruments can supplement the work of the United Nations and can often apply general principles in more meaningful and effective ways.

The Canadian Government also strongly supports General Assembly resolution 32/127 of 16 December 1977, which seeks to encourage regional machinery for promoting and protecting human rights. Given recent emphasis on regional co-operation in the economic and social fields, it is both natural and laudable that states should strive to establish appropriate standards for promoting human rights and effective machinery for monitoring compliance with such standards. The Canadian Government recommends that further encouragement be offered to regions, through regional economic commissions and other existing bodies, and through the programme of advisory services in the field of human rights, to accelerate the establishment of such machinery.

The Canadian Government recognizes that the promotion and protection of human rights can be most effective and fundamental at the national level. At the same time, however, the United Nations has an important role to play in recommending to states ways and means of furthering respect for human rights. The Canadian Government considers that education in human rights at the elementary, secondary and post-secondary levels should provide the basis for progress in social justice, and that each state should strive to ensure that public instruction in human rights is adequate and appropriate. In addition to instruction for students, states should undertake to make available to all persons within their jurisdiction appropriate material concerning human rights, including the Universal Declaration of Human Rights, the Human Rights Covenants, the Optional Protocol and other relevant instruments. Material should be made available in all official national languages, and, where possible, in all languages spoken in the jurisdiction. Where a United Nations information agency exists, it should emphasize the distribution of human rights material and ensure that persons are not denied access to it. The Canadian Government supports efforts by the Office of Public Information to disseminate information as widely as possible, and wishes to encourage continual production of publications such as the International Bill of Human Rights, United Nations instruments in the field of human rights and United Nations action of the field of human rights.

The Canadian Government believes that respect for human rights would be enhanced by more widespread ratification of existing human rights instruments. United Nations instruments provide a standard whereby adherence and non-adherence to accepted standards can be measured, and often provide means to monitor compliance. This is particularly important since the acceptance of standards in theory does not automatically ensure that they are respected in practice. The United Nations should encourage efforts to assure widespread ratification of instruments concluded under its jurisdiction. Special efforts should be made to secure adherence to the optional elements of the Covenants and the Optional Protocol, which provide further means of monitoring the extent to which rights and freedoms are guaranteed and protected in practice.

The United Nations should encourage states to create national institutions for the protection and promotion of human rights. National institutions, particularly those which are independent of governments can provide a useful mechanism for the redress of grievances, as well as providing a vehicle for the dissemination of educational material. The Canadian Government was a co-sponsor of the Commission on Human Rights resolution 23(XXXIV), and wishes to encourage further action in this direction.

In recent years more and more states have begun to express their anxiety at what appears to be a continuing and substantial deterioration in the global human rights situation. In response to these expressions of concern and implicit criticism of the United Nations, the United Nations has undertaken to renew its efforts to promote human rights and to review the machinery at its disposal. The Canadian Government supports such efforts to enhance the collective capacity of member states to act decisively when violations of human rights occur. Canada supported resolution 32/130, which sought to define guiding concepts for future action, and will continue to support efforts to identify human rights problems - whether economic, social and cultural or civil and political - and to prescribe appropriate solutions. Despite the diversity of their cultures, traditions and legal systems, all states share a responsibility for the respect of human dignity. The Canadian Government pledges its full support to all constructive efforts to ensure that this cause is strengthened throughout the globe.

FINLAND

[Original: English]

[5 December 1978]

In view of the utmost importance of this matter, the Commission on Human Rights should continue to give high priority to its work on the item entitled "Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme of work of the Commission; alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms". This work should lead to the elaboration of concrete proposals. General Assembly resolution 32/130 of 16 December 1977 and the discussion of the item in the Third Committee preceding the adoption of the resolution offer a useful guidance for the Commission in its continuing work.

Reiterating its view expressed earlier under this item, the Government of Finland would like to emphasize once more that human rights are a matter of importance for peace and good relations between States, and that this applies to all human rights, the civil and political as well as the economic, social and cultural rights. It is obvious that many of the burning problems of the world today are basically human rights problems. This is why the respect for, and observance of, human rights has become a matter of international concern requiring ways and means for their international protection.

It has to be borne in mind, however, that in the first place only States are in the position to take the necessary legislative, administrative and other measures for the enjoyment of human rights and fundamental freedoms under their immediate jurisdiction. In order to give both de jure and de facto effect to the provisions of human rights instruments, the widest possible ratification of the conventions in this field should be attained. Only then could the implementation machinery established by them be made fully effective and significant.

In this regard, the working methods of the Commission should be rationalized so as to enable it to accomplish its mandate more effectively. It is deplorable that several important items have been postponed year after year because of lack of time. All items deserve serious discussion as soon as they are included in the agenda of the Commission. Therefore, a stricter practice should be followed with regard to the use of the time allotted for the various items on the agenda. It seems useful also to make greater use of informal working groups or other subsidiary bodies in order to prepare the decisions of the Commission. Extraordinary sessions of the Commission could be held for the purpose of disposing of specific topics that have been postponed several times.

Quite obviously, there is a need for rationalization and co-ordination of work on an even larger scale. This could be done in the context of the over-all restructuring of the work of the United Nations in the field of economic and social activities without drastic changes that would require amending the Charter. In particular, overlapping and duplication of the work of the various organs should be avoided as much as possible, bearing also in mind the hierarchical status of these organs in their mutual relations.

At the same time the machinery directly at the disposal of the various organs of the United Nations should be improved and strengthened in view of the fact that a considerable number of States are still outside the range of application of the conventions in the field of human rights.

Among the methods to be further developed in order to strengthen the international protection of human rights and fundamental freedoms, special attention is due to the procedure laid down in Economic and Social Council resolution 1503 (XLVIII) for dealing with communications revealing a consistent pattern of gross and reliably attested violations of human rights. Since the communications in any case are examined in the first place by a subsidiary body of the Commission, procedures such as those suggested in paragraph 179 of the report of the Commission on its thirty-fourth session allowing for monitoring and prompt action in exceptional circumstances could usefully be introduced.

In the light of previous experience the fact-finding procedures to be resorted to in co-operation with the governments directly concerned - and the good offices of the Secretary-General in particularly delicate cases - have shown their usefulness. Their utilization should be further enhanced. In this context a permanent panel of experts could facilitate the application of fact-finding procedures and serve other purposes as well, e.g. in the field of advisory services.

In general the effective enjoyment of human rights and fundamental freedoms is ensured by the use of two approaches simultaneously; on one hand the protection of these rights and the reaction to violations, and on the other hand the promotion of these rights on a longer term. In the latter respect, the programme of advisory services is of great importance and deserves a growing share of the resources in the human rights budget.

The establishment of regional human rights commissions may serve a useful purpose in cases where States belonging to the same sphere of legal and cultural traditions are willing to collaborate in promoting the enjoyment of human rights in the region concerned. It is to be noted, however, that a geographical link is not always a sufficient basis for such a commission.

As regards the question concerning the possible appointment of a United Nations High Commissioner for Human Rights, it has become perhaps unnecessarily controversial. So far, the idea has gained enough support to deserve to be discussed in a constructive spirit. Now that the codification and the standard-setting work in the field of human rights has been largely accomplished, the main concern has to be directed to the effective implementation of these rights and freedoms. As reaffirmed in the Preamble of the Universal Declaration of Human Rights, "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world". The respect for, and observance of, human rights and fundamental freedoms are vitally important factors in relations between states. Thus all methods that could contribute to their promotion should be thoroughly considered. A wide agreement on the mandate of the High Commissioner is necessary before such a post is created.

As finally regards the thirtieth anniversary of the Universal Declaration of Human Rights, the Government of Finland fully supports the recommendation of the Commission to the effect that this is the occasion of special efforts to promote international understanding, co-operation and peace and the universal and effective respect for human rights and fundamental freedoms. In each country, the local circumstances should be taken into consideration in determining the particular ways and means for this purpose. In any case, stress should be laid, as suggested by the Commission, upon the educational approach both within and outside formal school systems.

Moreover, the most of this opportunity should be made for mobilizing the world public opinion to be used as an effective instrument in persuading Governments to fulfil their obligations under the Charter of the United Nations and pursuant to the provisions of the other international instruments in the field of human rights, to which they have adhered. It is the conviction of the Government of Finland that this process will inevitably lead to the understanding of the international protection of

FRANCE

[Original: French]

[6 November 1978]

1. In the opinion of the French Government, the mandate given in resolution 32/130 to the Commission on Human Rights should not be limited to a study of ways of applying the "new concepts" laid down in that resolution. Studies should be preceded by a critical examination to determine the extent to which these new concepts may be regarded as rights or as conditions making possible or facilitating the effective exercise of human rights proper.

2. The efficiency of ways and means of promoting and defending human rights depends on the will of States to refrain from making these rights the cause of political confrontation or weapons to be used against each other; it depends on the will of States mutually to respect their ideological options; and lastly, it depends on the will of States to co-operate in the establishment of an international order, certainly in the economic sphere but also in the political sphere, in which the rights of the individual can be enjoyed to their fullest extent.

Without this political will, the promotion of human rights will not be possible. In this connexion, it should be emphasized that this political will cannot consist in merely extending the list of human rights. It does not serve the cause of certain claims to present them as rights if those rights can be assigned neither a well-defined subject or object, nor any legal system under which they can be invoked in order to ensure respect for them; presented in this way, these claims become dubious, since they do not correspond to genuine rights, although their satisfaction may be recognized as being necessary if they are themselves recognized as conditions making possible or facilitating the effective exercise by the individual of human rights.

It should also be stated that the promotion of human rights implies the free circulation of people and ideas across borders, on the understanding that States agree not to take advantage of this to carry out propaganda.

Political will is also essential for the defence of human rights, which requires effective international control over the extent to which States respect these rights.

Nevertheless, it remains true that any system can always be improved. Substantial progress would be achieved if the Commission on Human Rights made it a rule to give priority consideration to agenda items which it has not been able to consider at previous sessions. It would also be useful if it were authorized to hold a second session during the year whenever necessary.

It is desirable that the procedure laid down in Economic and Social Council resolution 1503 (XLVIII) should be strengthened and utilized to the fullest extent, provided that the investigations provide an opportunity for both parties concerned to state their case and do not prejudge the conclusions, that the procedure remains confidential in the investigatory stage, that the prior consent of the State is recognized as being necessary for local investigations, except for States waiving this requirement, and lastly that groups of investigations should be limited to fact-finding without passing judgement.

On the other hand, the French Government sees serious disadvantages in authorizing the Chairman or Bureau of the Commission to act between sessions of the Commission, particularly in response to reports of gross violations of human rights. That procedure does not offer all the desirable guarantees of security and objectivity and implies that the Commission possesses competence which it does not have. The idea of permanent fact-finding machinery also seems to have more disadvantages than advantages; the question arises whether the existence of a permanent panel of experts would not lead the Commission greatly to increase the number of requests for enquiries; moreover, the experts would probably have less authority than the persons selected in each case by the Commission or the Sub-Commission.

The establishment of regional and national authorities can only be welcomed if its aim is not to regionalize human rights but, on the contrary, to encourage respect for those rights in accordance with universal norms.

The appointment of human rights field officers, better co-ordination of activities in the sphere of human rights and the strengthening of the good offices role of the Geneva Secretariat may be useful.

France naturally remains in favour of the establishment of a post of United Nations Commissioner for Human Rights.

The report lists various suggestions which have a bearing on the Commission on Human Rights itself. It would appear that the consideration of proposals which substantially change this body can be useful only if it provides an opportunity for in-depth consideration of the end purpose.

The Commission on Human Rights should be a body for standard setting and the statement of views on particular subjects; it should also be a body for monitoring respect for human rights. We are bound to note, however, that the definition of the contents of each of these two functions still remains to a great extent incomplete.

In this double role, the Commission on Human Rights must act firmly and from a lofty standpoint.

In this connexion, the suggestion to increase the number of its members can only be treated with caution. To elevate its status would constitute formal recognition of the importance of its role, but would not substantially improve its efficiency; direct reporting to the General Assembly might, rather, deprive it of the distance which it needs.

It would seem that the idea that the Commission should devote most of its work to the implementation of human rights, and particularly to the consideration of flagrant violations, entrusting most of the normative role to the Sub-Commission, should be rejected.

3. Lastly, it should be pointed out that, although the determination of ways and means of ensuring respect for the "new concepts" is a matter for the Commission on Human Rights - subject to the distinction to be made between those which can be regarded as rights and those which are circumstances capable of facilitating the exercise of those rights - the overall and permanent mandate of the Commission remains the definition of measures to be adopted to ensure increased respect for all human rights.

HUNGARY

[Original: ENGLISH]

[1 December 1978]

Concerning the further promotion and encouragement of human rights and fundamental freedoms including the question of the programme of work of the Commission on Human Rights; alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms.

Promotion of the respect of human rights and fundamental freedoms as well as encouragement of international co-operation serving this purpose are a task of the United Nations Organization stemming from its Charter.

The United Nations Organization and its agencies, especially the Commission on Human Rights has already made important steps with a view to realize the aims laid down in the Charter. In the framework of the United Nations Organization a number of international conventions have been elaborated and adopted regulating in a comprehensive manner the individual fields of human rights and reflecting those historical changes that have taken place in the international relations as a consequence of the strengthening of the forces of peace and progress.

When we are talking about a more effective enjoyment of human rights and fundamental freedoms and alternative approaches within the United Nations system to this end, the fundamental starting idea is to recognize that realization and protection of human rights are above all the duty of the States and subject to their exclusive jurisdiction. To this idea is closely connected that the promotion of respect of human rights by the United Nations can be imagine and realize exclusively on the basis of peaceful coexistence among States.

The question of the effective enjoyment of human rights and of the widening of the relevant international co-operation was discussed at the 32nd Session of the United Nations General Assembly and as a result of the debate, resolution A/32/150 was adopted. This resolution contains a number of conceptions that should be taken absolutely into consideration when examining the alternative approaches, ways and means of the enjoyment of human rights and the future programme of work of the Commission on Human Rights.

These concepts are the following:

- Human rights and fundamental freedoms are indivisible and interdependent; the confrontation of certain rights or of a group of rights with other rights is, therefore, inadmissible;
- the enjoyment of economic, social and cultural rights is an important condition of the full realization of civil and political rights;
- the grave and mass infringements of human rights as a consequence of apartheid, racism, colonialism, foreign oppression and the refusal of the right to self-determination, are the cause of the entire international community;

- the adherence of a great number of States to the international conventions on human rights as well as the full realization of the obligations undertaken in them are of outstanding importance from the viewpoint of the effective enjoyment of human rights and fundamental freedoms;
- co-operation among States in the field of human rights may be realized on the basis of the respect of the principles laid down in the United Nations Charter.

The Hungarian Government considers adequate and sufficient the present United Nations institutional system dealing with human rights for an effective promotion of the enjoyment of human rights and fundamental freedoms all over the world. It is, therefore, of the opinion that - keeping in view the above conceptions - alternative approaches and ways and means are to be sought within the present institutional system of the United Nations. The Hungarian Government has serious reservations regarding the creation of any new post or institution. It is convinced that any of these should only lead to further duplications and overlappings in the United Nations work, endanger international co-operation and harm relations among Member States. In its judgement, when examining this problem, attention must be focussed in the first line on the improvement of the work of already existing United Nations bodies, on the intensification of the efficiency of their activities.

Accordingly, in seeking alternative approaches, ways and means the following questions should be taken into consideration:

- elaboration of further international conventions in which the States determine their factual obligations concerning certain spheres of human rights;
- widening of the circle of States participating in international conventions already entered into force and the realization as fully as possible of the dispositions of these conventions;
- better utilization of the possibilities ensured by the Charter with a view to act against gross and mass infringements of human rights that endanger international peace and security;
- improvement of the mandate of the Commission on Human Rights, e.g. in respect of questions, such as duration and timing of meetings, number of the committee members;
- elimination of duplications and overlappings in the present United Nations institutional system on human rights.

In connexion with the programme of work of the Commission on Human Rights, it must be underlined that an efficient work of the Commission depends largely on how it is able to recognize and to put into the centre of its attention the fundamental problems closely related to the promotion of the effective enjoyment of human rights.

In the opinion of the Hungarian Government, the Commission should put to the fore the study of the following subjects:

- the favourable influence of measures - taken to consolidate international peace and security - on the enjoyment on a large scale of human rights and fundamental freedoms;
- the adverse consequences of the infringement of peace, aggressive policy, colonialism and racial discrimination on the universal enforcement of human rights;
- the adverse effect of the armaments race on the implementation of economic, social and cultural rights;
- the transformation of international economic relations on the basis of justice and equality in the interest of a more effective enjoyment of economic, social and cultural rights;
- a more efficient use of the results of scientific and technical progress in the interest of the promotion of the rights of large masses of the people;
- preconditions and promotion of the enjoyment of the right to work and the right to equitable and favourable working conditions (Article 7 of the Economic, Social and Cultural Convention);
- effective guarantees of the right to culture and to the participation in education - especially by gradual realization of the principle of obligatory and gratuitous schooling (Article 3 and 4 of the Convention);
- increasing of the efficiency of international conventions on human rights.

The Hungarian Government would like to contribute with the above remarks and observations to the comprehensive analysis carried on by the Commission on Human Rights pursuant to Resolution A/32/130 of the General Assembly.

GERMAN DEMOCRATIC REPUBLIC

[Original: English]

[21 November 1978]

To begin with, the German Democratic Republic wishes to refer to the statement made by its representative on agenda item 76 at the thirty-second session of the General Assembly and in which its basic position on the over-all problem of "Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms", was set forth. (A/C.3/32/SR.51)

With reference to Chapter IX, paragraph 162 of the report of the thirty-fourth session of the Commission on Human Rights, the German Democratic Republic also believes that the General Assembly resolution 32/130 is of fundamental importance for the further work of the Commission on Human Rights.

Considering what the principles of that resolution are, the German Democratic Republic would appreciate it if the Commission on Human Rights placed the following issues in the centre of the over-all analysis to be prepared:

1. To ensure human rights is a task for the State concerned and over which it has sovereign competence as correctly set forth in para. 164 of the above-mentioned report. Therefrom arises the need for international co-operation to promote human rights pursuant to articles 55 and 56 in conjunction with articles 1 and 2 of the United Nations Charter. The Commission on Human Rights should be guided by this awareness as well as by the concept underlying resolution 32/130, notably the principle laid down in para. 1 of the preamble.
2. In considering human rights issues the German Democratic Republic believes, one should proceed from the commitment of States to peace under international law and from other generally recognized principles of democratic international law. Paragraph 178 of Chapter IX rightly says that the Commission on Human Rights should deal with the right to live in peace and security as a long-term project. Therefore, the German Democratic Republic supports the proposal submitted by the Union of Soviet Socialist Republics at the thirty-fourth session of the Commission on Human Rights to pay special attention in future to the study of the positive influence on the implementation of human rights that derives from action by States to widen and deepen the process of détente and to strengthen peace. At the same time, it is necessary to make a thorough analysis of all negative effects on the implementation of human rights that arise from a policy of aggression, the arms drive, of occupation, colonialism and others. As a result of relevant studies, new international instruments could be drawn up with a view to effectively guaranteeing the human right to live in peace and security. Since during the thirty-fourth session of the Commission on Human Rights but a few States referred to this problem, it should be duly discussed in the course of the further work on an over-all analysis.
3. In the view of the German Democratic Republic the unity, equivalence and the interrelationship of economic, social, cultural and political rights as referred to in paragraphs 8 and 9 of the preamble and paragraphs (i)(a), (b) and (f) of resolution 32/130 constitutes another priority.

In the opinion of the German Democratic Republic the efforts to give universal effect to the two human rights covenants are among the principal approaches to improving the effective enjoyment of human rights as a unity of economic and political rights. The Commission on Human Rights should therefore by appropriate action encourage other States to accede to these covenants or to ratify them.

In this connexion, the German Democratic Republic wishes to renew an earlier proposal:

- (a) The examination of the reports of States parties on the implementation of the International Covenant on Economic, Social and Cultural Rights within ECOSOC should be handled in the same manner as that of the reports to the Human Rights Committee, and these reports should be transmitted to the Commission on Human Rights for study pursuant to Article 19 of CESCR.
- (b) The examination of the periodical reports by States not parties to the Covenant pursuant to ECOSOC resolution 1074 C within the Commission on Human Rights should be handled in a manner and depth similar to that of the reports submitted by States parties within the Human Rights Committee.

In evaluating the reports of States the Commission on Human Rights should make a systematic study of

- (a) positive national experiences gathered in the implementation of economic, social and cultural rights as well as civil and political rights;
- (b) obstacles and difficulties which impede the implementation of these rights (c.f. e.g. paragraph 2 of Article 17, CESCR; paragraph 2 of Article 40, CCPR; and resolution 4 (XXXIII) of the Commission on Human Rights).

As a result of such studies, the Commission on Human Rights should prepare detailed programmes designed to overcome difficulties that may arise from the implementation of human rights. In the light of Article 23, CESCR, international action for the implementation of the various rights might include such steps as the conclusion of special conventions, the preparation of recommendations, international and regional expert conferences for purposes of consultation and study as well as the allocation of funds for experts and for suitable materials such as text books, information etc.

4. The German Democratic Republic draws attention to what resolution 32/130 states in paragraph 1 (f), i.e. that the implementation of the new international economic order constitutes an essential factor in the effective promotion of human rights. Since this question was only touched upon at the thirty-fourth session of the Commission on Human Rights, it should be discussed in detail at the forthcoming thirty-fifth session.

On the basis of what the Charter of Economic Rights and Duties of States provides, the German Democratic Republic advocates an intensive exchange of opinions among States parties on the above-mentioned tasks, also in the framework of advisory services. In this connexion also ways and means of implementing the Declaration on Social Progress and Development should be discussed.

The German Democratic Republic also champions a form of permanent co-operation between the Commission on Human Rights and the Commission on Transnational Corporations for the purpose of studying any negative impact the Transnational Corporations have on the implementation of collective and individual human rights, and of overcoming them through international action.

In support of the work of the Commission on Transnational Corporations, the Commission on Human Rights might prepare specific subjects:

- (a) to facilitate the universal surveying of the negative impact of the Transnational Corporations on the enjoyment of human rights;
- (b) to promote the preparation of recommendations to individual States on the protection of human rights against the practices of the Transnational Corporations.

Furthermore, e.g. studies on the outflow of capital from developing countries and the flow of investments from Transnational Corporations and other investors should be made with a view to determining excessive absorption by Transnational Corporations and any concomitant damage to the indigenous population in their enjoyment of economic, social and cultural rights. A corresponding portion of the gains of Transnational Corporations could be allocated to regional development funds for the promotion of human rights.

Furthermore, the German Democratic Republic attaches special importance to the proposed study entitled "The international dimensions of the right to development as a human right in relation with other human rights based on international co-operation, including the right to peace, taking into account the requirements of the New International Economic Order and fundamental human needs" - resolution 4 (XXXIII) of the Commission on Human Rights. The German Democratic Republic considers it necessary that the views and experiences of all States parties, notably those of the developing countries, should be reflected in that study.

5. The German Democratic Republic appreciates it that resolution 32/130 clearly defines for the first time those massive and systematic violations of human rights which are of international relevance since they are of such a nature that they pose a threat to peace. For the future work of the Commission on Human Rights it is necessary to give priority to such gross violations of the rights of peoples and persons and to devise relevant procedures.

A number of important conventions and the enforcement procedures provided for therein aim at eliminating or preventing massive and systematic violations of human rights such as the Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the Elimination of All Forms of Racial Discrimination and the two human rights covenants. The German Democratic Republic holds that the accession to these international conventions or their ratification by all States that have not yet done so is another important way of eliminating or preventing massive and systematic human rights violations.

In this connexion the German Democratic Republic is of the opinion that the procedure envisaged in ECOSOC resolutions 728 F (XXVIII), 1235 (XLII) and 1503 (XLVIII) does no longer meet the requirements of General Assembly resolution 32/130. It should be replaced by a new and more effective procedure to determine and treat massive and gross violations of the rights of peoples and persons

as listed in paragraph (i)(e) of resolution 32/130. That new procedure should be defined in a suitable instrument. Since for the States parties to the above-mentioned conventions contractual enforcement procedures are already in force, the weaker procedure provided for in ECOSOC resolutions 728 F, 1235 and 1503 should cease to apply to these States already at this stage.

As follows from Chapter IX of the report of the Commission on Human Rights, several States have resubmitted a number of earlier proposals which, in the view of the German Democratic Republic, are not only unsuitable for the suppression of massive and systematic human rights violations but which, moreover, are incompatible with the Charter. These include among others:

- the creation of the post of a High Commissioner for human rights (para. 181);
- the elevation of the Commission on Human Rights to a Council on Human Rights, which reports directly to the General Assembly, and the establishment of other sub-commissions of the Commission on Human Rights (para. 174);
- the establishment of a fact-finding machinery and of a panel of experts (para. 180).

These and similar proposals are controversial as a result of their interventionist character and are obviously designed to undermine the clear-cut provisions contained in paragraph 10 of the preamble and in paragraph (i) (e) of resolution 32/130, and to distort them. Therefore, and also in the interest of greater effectiveness in its work, the Commission on Human Rights should refrain from further discussing such proposals. Besides, all States that wish the treatment of individual complaints or State complaints on account of alleged human rights violations have the possibility to ratify the optional protocol or to adopt Article 41 of the Covenant on Civil and Political Rights.

6. As regards the further improvement of the activities of the Commission on Human Rights, the German Democratic Republic supports such measures as were proposed in draft resolution E/CN.4/L.1397 at the thirty-fourth session of the Commission on Human Rights and expects that these measures will be reflected in the over-all analysis and in the relevant recommendations of the Commission on Human Rights to the thirty-fourth General Assembly.

The German Democratic Republic holds that these proposals are realistic in nature and in line with the approaches envisaged in the Charter, and that they will, therefore, be widely acceptable.

IV. INFORMATION COMMUNICATED BY THE RELEVANT NON-GOVERNMENTAL ORGANIZATIONS

WOMEN'S INTERNATIONAL DEMOCRATIC FEDERATION

[Original: English]

[2 November 1978]

We should like first of all to express our pleasure at the attention given in Resolution 32/130 of the General Assembly and the corresponding resolutions of ECCSOC and the Commission on Human Rights to alternative approaches - and ways and means for improving the effective enjoyment of human rights and fundamental freedoms in all countries.

This coincides, as we have pointed out on other occasions, with the objectives set forth in the programme that has guided the WIDF and its national organizations in their activities during the last 33 years, a programme in which the specific rights of women and children are conceived as inseparable from the economic, political, cultural and social rights of the peoples and closely linked with winning and defending national independence and democratic freedoms, the elimination of apartheid, racial discrimination and fascism, national progress, the consolidation of détente, cessation of the arms race, and a lasting peace.

For these reasons the WIDF highly appreciates the action being taken by the international community to preserve the dignity of the human person and the rights of peoples. It expresses its total endorsement of the propositions on which General Assembly Resolution 32/130 is based, particularly where it notes the importance of the International Covenants on Human Rights and stresses that all human rights and fundamental freedoms are interrelated and indivisible and that all peoples have the right to self-determination.

The WIDF regards it as very significant that Resolution 32/130 recognizes "that apartheid, all forms of racial discrimination, colonialism, foreign domination and occupation, aggression and threats against national sovereignty, national unity and territorial integrity, as well as the refusal to recognize the fundamental rights of all peoples to self-determination and of every nation to exercise full sovereignty over its natural wealth and resources constitute situations which in themselves are and generate mass and flagrant violations of all human rights and fundamental freedoms of peoples as well as individuals".

The WIDF also considers that the establishment of a New International Economic Order and the development of co-operation among nations, as well as an end to the arms race and prohibition of the manufacture of new weapons of mass destruction, would help to consolidate détente and would favour the efforts of peoples and States to guarantee the economic, political, social and cultural rights of all persons.

We consider that the rights of women and the family and the right of children and youth to a better present and future can become reality only under these conditions. Only in a world of peace and progress, democracy and social justice can all human beings realize their legitimate aspirations and particularly the aspiration to enjoy the first and fundamental right of every person, the right to life.

The WIDF agrees in general with the concepts under point 1. of Resolution 32/130 regarding the treatment of human rights questions within the United Nations system. The many authentic and well documented communications submitted by our Federation, particularly with regard to the plight of children, women and the family in a series of countries, are evidence that it is necessary to "accord, or continue to accord, priority to the search for solutions to the mass and flagrant violations of human rights of peoples and persons" resulting from the existence of apartheid, racial discrimination, colonialism and all the forms of domination and oppression of nations and peoples listed in the Resolution.

We also consider that the observance of the 30th Anniversary of the adoption of the Universal Declaration of Human Rights is a magnificent opportunity to examine, in the light of the principles it contains, the extent to which the rights it recognizes actually prevail, as well as to demand that the governments that have not yet done so ratify the international instruments on human rights and effectively implement them. The WIDF Council made such a suggestion at its latest meeting (Moscow, May 1978), and a special Statement is now being circulated, a copy of which is enclosed together with the Council documents. As a women's organization that has among its objectives the defence of the rights of women and children, the WIDF will observe 10 December as a day to assert the fundamental rights of the human person, as a part of its work in preparation for the International Year of the Child and its struggle for achievement of the targets set forth in the World Plan of Action for the Decade for Women.