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CONTENTS

Chairman: Mrs. Halima EMBAREK WARZAZI (Morocco).

AGENDA ITEM 62

Draft International Covenants on Human Rights (continued)

ARTICLES ON MEASURES OF IMPLEMENTATION OF THE DRAFT COVENANT ON CIVIL AND POLITICAL RIGHTS (continued) (A/2929, CHAP. VII; A/5411 AND ADD.1-2, A/5702 AND ADD.1, A/6342, ANNEX II.B, PARTS IV AND V; A/C.3/L.1366/ADD.3-5, ADD.6 AND CORR.1 AND ADD.7, A/C.3/L.1402/REV.2)

1. The CHAIRMAN invited the Committee to continue its consideration of the proposed new article 41 bis (A/C.3/L.1402/Rev.2).

2. Mrs. ASIYO (Kenya) said that she was not opposed to the principle of individual petitions and pointed out that the Constitution of her country guaranteed the rights of the individual. However, she did not think that any system could protect the rights in question better than the State itself. She wondered, moreover, when the human rights committee received a communication, what criteria it would apply in deciding that all available domestic remedies had been exhausted and that the communication did not constitute an abuse of the right to submit communications. She would therefore vote against article 41 bis, as presented in document A/C.3/L.1402/Rev.2, but she would agree with the idea of a separate protocol put forward by the representative of Lebanon.

3. Mrs. KUME (Japan) said that she did not think it advisable to include in the Covenant a clause granting the right of petition to individuals. That did not mean that she was opposed to the idea that the individual could be a subject of international law, and she agreed that the individual could be represented before international tribunals in certain cases—for instance, in connexion with the implementation system of the ILO Conventions. In her view, however, it would be dangerous to apply, in connexion with the Covenant under discussion, the system proposed in article 41 bis, since such a system might be exploited for purposes of political propaganda, and that could only envenom relations between States. The analogy with the International Labour Organisation was not valid, since the ILO individual petition system was limited to a precise sector of the field of human rights, whereas the Covenant was much broader in scope. The adoption of the proposed system would also raise technical problems, since the human rights committee would have only eighteen members and would not be in permanent session. Thus, it could hardly be expected to examine all the communications that would be sent to it. She therefore expressed reservations concerning the advisability of article 41 bis.

4. Mr. ATASSI (Syria) said that he appreciated the humanitarian motives which had inspired article 41 bis but felt that, at the current stage in the codification of human rights, the Committee could not include in the text of the Covenant itself a clause granting individuals the right to submit petitions against States, because the human rights committee, however impartial it might be, would necessarily have to judge the petitions from a political standpoint. Most complaints by individuals against the State of which they were nationals would be of a partisan nature, or even artificially concocted, and might disturb international peace and security. In his view, the machinery provided for in article 41 bis was premature, bearing in mind the current stage in the codification of human rights. He believed that the adoption of such a clause would harm the Covenant, delay its ratification, and ultimately disserve the cause of human rights.

Mr. Ronald Macdonald (Canada), Vice-Chairman, took the Chair.

5. Mr. CARPIO (Guatemala) remarked that the purpose of any State was to guarantee the enjoyment of individual rights and that the ultimate goal of any society was to establish a just balance, first between the individual and the State and then between States and the international community, without, however, damaging the interests of the State or those of the individual. However, human rights were not being fully respected at the present time; relations between the individual and the State were not yet perfect and human rights were being violated daily, nationally and internationally. Article 41 bis was designed precisely to prevent such violations by safeguarding the interests of the individual without harming those of the State. Thus, it was that State sovereignty was protected by the optional clause in paragraph 1. His delegation naturally supported the principle of non-intervention in the domestic affairs of States, but it also upheld the principle of respect for the rights

of the individual. Both principles were sanctioned by article 41 bis, because, while preserving State sovereignty, it guaranteed the rights of the individual. The article was not perfect, but it was not negative. It should not be rejected but, rather, its defects should be corrected.

6. Mrs. KATIGBAK (Philippines) said she thought that an essential building-block would be missing from the edifice constructed by the Third Committee in the field of human rights if the articles of implementation of the Covenant on Civil and Political Rights did not include a clause granting individuals the right of petition. The new article proposed in document A/C.3/L.1402/Rev.2 was very moderate—so moderate that her delegation had hesitated to become a sponsor, because it would have preferred a stronger text. It was optional and provided so many precautions against any possible abuse that, in the end, it merely affirmed the principle of international recognition of the right of individuals to submit petitions. It was, in some respects, more limited in scope than article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, and in her view the Covenant under discussion would be definitely weaker than the Convention if the Committee made a separate protocol of the new article, instead of incorporating it in the measures of implementation. Moreover, although attempts must be made to achieve unanimity as often as possible, it should be borne in mind that the purpose of the United Nations was to establish international norms to which States would conform gradually in their efforts to attain the objectives set by the Charter. The clause which it was proposed should be included was not Utopian, any more than the United Nations Charter, the Universal Declaration of Human Rights and the very Covenants which the Committee was now completing had been twenty years previously.

7. Miss GROZA (Romania) observed that contemporary society was a State society, and the implementation of human rights must be effected in the context of the State. In Romania, the Constitution gave a prominent place to the protection of human rights, and they were also guaranteed in the various laws, including labour, family and education laws. Every State agency included a petitions bureau to which individuals could address themselves; if their complaints were rejected, they could appeal to a higher authority. Thus, the implementation of human rights was subject to effective political supervision. She believed that the individual should have recourse only to the State, since only the State was in a position to ensure respect for human rights. What was needed, therefore, was to strengthen the authority of the State in that connexion, rather than to establish an international authority, as proposed in article 41 bis, since no international tribunal had the right to intervene in the domestic affairs of States. Article 41 bis would deter many States from ratifying the Covenant, and her delegation would therefore vote against it.

8. Mr. SANON (Upper Volta) said that the Legal Counsel, in replying to the questions put to him, had not said what criteria the human rights committee would apply in deciding when a communication constituted an abuse of the right to submit communications. Yet that was a very important question, which should be resolved before the Committee took a decision on article 41 bis. Again, with reference to the annual report prepared by the human rights committee, he did not see how reports could be both confidential, as provided in sub-paragraph 5 (a) of the new article, and generally distributed, as provided in article 45 of the Covenant. Those two provisions appeared to him to be incompatible, for even if the report was only a summary it would have to contain some particulars of the substance, in order to show what the case submitted to the committee was about. Lastly, certain delegations had expressed some concern at the jurisdictional powers granted to the human rights committee in article 41 bis. The Third Committee could not decide whether article 41 bis should be included in the Covenant or form a separate protocol until those various points had been clarified.

9. Mr. HANABLIA (Tunisia) said that while he was not opposed in principle to the right of individual petition, he could not accept article 41 bis as proposed. Under that text, the human rights committee would be a sort of court of appeal deciding cases previously tried by the national tribunals, and thus casting doubt on the impartiality of justice in various countries. It would have a judicial competence, which the Third Committee had been careful to avoid. Moreover, article 41 bis, paragraph 1, said that a State Party could recognize the competence of the committee to receive communications from individuals. But article 26 of the Covenant did not allow every State to become a party to the Covenant. Only States in the categories mentioned in that article would therefore have the right to make the declaration provided for in paragraph 1 of the new article. Furthermore, paragraph 2 stated that the provisions of that article "shall come into force when ten States Parties have made such a declaration". He failed to see why that number had been chosen, for it did not correspond to that required in the European Convention for the Protection of Human Rights and Fundamental Freedoms. He trusted the sponsors would explain that point. Whether the communications transmitted by the human rights committee to the States Parties concerned could be kept confidential was highly problematical; he stressed, as the representative of Upper Volta had done, that on that point sub-paragraph 5 (a) was in contradiction with paragraph 7. He also noted that in paragraph 7 the co-sponsors had used the word "suggestions", which in article 41 had, at France's request, been replaced by the words "written submissions". Lastly, the provisions of article 41 bis were in flagrant contradiction with those of article 41. He therefore disagreed with the Canadian representative and felt that article 41 bis was not in harmony with the rest of the Covenant.

10. Miss DMITRUK (Ukrainian Soviet Socialist Republic) shared the view expressed by the representatives of Iraq, Tanzania, the United Arab Republic and Syria. She opposed the inclusion of a provision on individual communications in the Covenant, for such a provision would reduce the number of accessions. Furthermore, there was no reason to think that such a system would be useful in the case of the present Covenant. The innumerable complaints that would be submitted would only complicate the

work of the human rights committee. If it were to hand down judgements or make recommendations to States, that committee would be interfering in their domestic affairs. The Covenant would thus cause tension among States instead of promoting world peace. There was a good reason why the Commission on Human Rights had not drawn up such a provision: article 41 bis was in contradiction with the principle of non-interference in the domestic affairs of States and consequently with the Charter. But every international document must comply with the existing rules of international law. Her delegation would therefore vote against the proposed new article.

11. Mr. BASHIER (Sudan) remarked that his country attached great importance to human rights and would like them to be universally accorded and guaranteed. His delegation had voted for article 27, 40 and 41 of the Covenant, but, in common with many other delegations, it would prefer the system of implementation be optional. The new article 41 bis, while at first glance similar to articles 40 and 41, in fact went much further and might offer a pretext for interference in the domestic affairs of States. Many newly independent countries, which were engaged in forging their national unity, would be unable to accept a clause which the great Powers could invoke in order to interfere in their internal affairs. They might perhaps modify their position later. His delegation would therefore be most reluctant to accept the inclusion of article 41 bis in the Covenant, but it would be able to accept a separate protocol. He hoped that the co-sponsors of the article would agree to that solution.

12. Mr. GUEYE (Senegal) said that he was unable at the present stage to support article 41 bis, which dealt with a very important question and required serious study. In his view, the problem should be referred to the competent legal services of the various countries. Prior to the twenty-first session of the General Assembly, the Secretary-General had sent to the Governments an explanatory document (A/6342) containing the text of the draft Covenants, with the implementation measures and the final clauses. There had been no provision on individual petitions in that document. Moreover, the African countries were in a disadvantageous position as compared with the European and American nations, for example, for the latter had prepared similar instruments in the past, whereas nothing of the kind had been done in Africa. At the same time, Senegalese citizens could, in defending their rights, have recourse to national courts, and he saw no need for the compulsory intervention of an international organ. It was true that the provision was intended to be optional but it was bound to give rise to misgivings. Even the older nations had always handled the problem with great caution and affirmed that the individual could not be the subject of international law. The 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms had certainly been a step forward, but it had not entered into force until 1953 and its provision on the right of individual petition had not come into effect until 1958, although eight acceptances had been required. For the young States, merely to accept the Covenant was a bold and self-sacrificing step. Moreover, thought should be given to the role of the International Court of Justice in interpreting the Covenant. If the United Nations traditions were to be respected, States should be asked their opinion on that question, and only after they had consulted their competent organs could consideration be given to drawing up a separate protocol on individual communications. His delegation would accordingly vote against article 41 bis.

13. Mrs. SOUMAH (Guinea) recalled that her country had undertaken to respect the Universal Declaration of Human Rights without any reservations. Guinea wished its people to be free in every respect, and guaranteed to them the right to petition, the right to strike and the right to freedom of speech and demonstation. In its view, however, the primary human right was the right to life. Unhappily, that right was not respected by some States which clung to their colonialist attitude and connived with the inhuman régime of South Africa. Her country would like that Covenant to be a universal instrument open to all. It was ready to accede to any international instrument which served the interests of the people. For the Covenant to be viable, the opinions expressed by numerous delegations must be taken into account, and she appealed to the sponsors to transform article 41 bis into a separate protocol.

14. Mr. KOITE (Mali) emphasized that his delegation had shown great co-operativeness and understanding in the course of the debates. It had, for example, accepted implementation provisions which were not in line with its own ideas. In its opinion, it would not be desirable at the present stage to include an article on individual communications in the Covenant, in view of the optional character of the implementation clauses. However, if there was a majority for the proposed new text, his delegation would press for its appearing as a separate protocol, or it would have to vote against it.

15. Mrs. HENRION (Belgium) declared that her delegation would vote for article 41 bis. There remained the question whether the contents of the article should appear as a separate protocol. She had listened to the Lebanese representative's arguments with close attention. Although those arguments had been prompted by a desire for conciliation, it would be a mistake to accept them, for the resulting system would offer no advantages. Article 41 bis contained an optional provision, leaving States entirely free to recognize the competence of the human rights committee or not, and to withdraw their recognition if they so wished. She therefore failed to see why a separate protocol would be any better.

16. Mr. SAKSENA (India) said he feared that the Committee had rather lost sight of the main point. It would be wrong to assert that those who supported article 41 bis were champions of the rights of the individual and that those who were opposed to it denied those rights. All the members of the Committee, including his own delegation, were convinced that the rights of the individual must be protected. But that was not the question. The issue was not the rights of the individual against the rights of States as some representatives had tried to emphasize, but whether the inclusion of such an article would really serve the cause of human rights. His delegation agreed with the Japanese representative that conventions

such as the European Convention for the Protection of Human Rights and Fundamental Freedoms which was regional in its application, or the International Convention on the Elimination of All Forms of Racial Discrimination, which covered only certain rights, could not be invoked as a precedent. The purpose of the present Covenant was the protection of all human rights and in all parts of the world. It could serve its purpose if its provisions were approved, and adhered to, by all States. Since article 41 bis was highly controversial, its insertion in the Covenant should be avoided. Those who believed that article useful should agree to its inclusion in a separate protocol. His delegation would have difficulty in approving article 41 bis. Its provisions were, in its views, too weak to effectively ensure the protection of individuals; it authorized the individual to lodge a complaint but by way of remedy merely provided, in sub-paragraph 6 (c), for the committee to forward suggestions to the State party concerned. If there was neither the willingness nor the authority at international level to take the necessary practical measures to protect the individual, it was preferable not to tackle the subject. Indeed, the new article was inconsistent with the system of implementation provided for in the Covenant, in which it had been consistently maintained that it would be the States parties which were to guarantee, ensure and protect the rights embodied in the Covenant. Article 41 bis made an abrupt departure from that principle and pretended to make the international machinery the protector of the rights of the individual as against its own States. But such pretensions were fake since the international machinery lacked sanctions behind it. It would only raise false hopes and therefore frustrations in the minds of the individual. The draft article was not only bad in principle but also lacked both clarity and coherence. It was not clear, for instance, why ten had been set as the number of States parties who would have to make a declaration recognizing the competence of the committee in order for the provisions of the article to come into force. It was also not clear why a committee of eighteen created for a different purpose was considered competent enough to examine individual petitions. Furthermore, as the representative of the Upper Volta had rightly pointed out, it was unlikely that the communications could be kept confidential if the committee was to include a summary of such communications in its annual report. No specific provision had been made regarding the reports of the human rights committee, and under article 45 the matter was left to the discretion of the committee itself. In conclusion, his delegation thought that the time had not yet come when an international body could take the place of the State in protecting individuals. If some delegations thought differently, they should agree to formulate their proposal as a separate protocol.

17. Mr. RUMBOS (Venezuela) said that he was prepared to support article 41 bis which he thought was fully in keeping with the purposes of the Covenant. Some difficulties still remained, of course, and his delegation could not fail to notice some contradictions or omissions in the present wording of the article, but it considered them of secondary importance. The value of article 41 bis lay in the justice of its purpose. When the question was considered from that angle and account was taken of the very optional nature of the provisions of the article, the fears that had been expressed by some delegations seemed totally unfounded. His delegation would vote in favour of the proposed article 41 bis.

18. Mr. NGYESSE (Democratic Republic of the Congo) said that he too had noticed the weaknesses and contradictions in the text of the new article, but he approved its underlying principle. However, in view of the fact that many new States were not yet able to defend themselves and needed strong governments, the creation of a system which might weaken the authority of national governments should be avoided. His delegation would therefore abstain in the vote on article 41 bis, as it had abstained in the vote on the establishment of the human rights committee, because it could not accept the submission of States to a control system. The Democratic Republic of the Congo guaranteed in its Constitution the rights of all its citizens. The statement he had just made could thus not be interpreted as implying that his country was not concerned about the protection of human rights.

19. Mr. MWALE (Zambia) said that his country attached great importance to the Universal Declaration of Human Rights. His delegation would nevertheless be obliged to vote against article 41 bis, as it felt that that text presented too many dangers and had too many omissions. Only paragraph 8 met with its full approval. Paragraph 3 of the article did not make it clear who would be entitled to decide that all available domestic remedies had been exhausted, the individual who wished to submit a communication or the State Party concerned. There seemed to be a risk that such a procedure might threaten the sovereignty of States. His delegation would therefore prefer the principles formulated in the new article to be contained in a separate protocol, as many delegations had already requested.

20. Mrs. HARRIS (United States of America) said that the rights of States were protected in the Covenant, since under the optional clause the States themselves decided whether or not they recognized the competence of the human rights committee. There was thus no reason for having a separate protocol, and her delegation would therefore vote in favour of article 41 bis.

21. Mr. ABOUL NASR (United Arab Republic) said that his delegation had already stated its position and had declared itself in favour of a separate protocol. It shared the misgivings of the Upper Volta representative and would like to hear the replies to the questions which had been asked before it voted on the matter.

22. Mr. HOVEYDA (Iran) said that the questions which the Upper Volta representative had addressed to the Legal Counsel were very pertinent. The complementary information requested was essential for a proper assessment of the article's implications. His delegation therefore reserved the right to comment more fully on the text at a later stage. It noted meanwhile, that the Committee was divided and that for some delegations, as the Senegalese representative had said, the article raised a new problem on which they did not have the instructions of their Governments. The situation thus seemed highly complex. He asked the sponsors to consider what would become of the

Covenant if the decision was forced in an atmosphere of discord. As the Guinean delegation had pointed out at the commencement of the Committee's work on the Covenants, hasty action should be avoided if valid texts were to be drawn up. He noted that the Committee was to take up another item the next day and that any vote at present would be far from unanimous. It would be a disservice to the cause of human rights not to try at least to obtain a unanimous vote.

23. Mr. ABOUL NASR (United Arab Republic) noted that paragraph 8 of the new article (A/C.3/L.1402/Rev.2) corresponded exactly to the first part of article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination. He wondered why the sponsors of article 41 bis had seen fit to use only the beginning of that article and not paragraphs 2, 3 and 4 also.

Mrs. Embarek Warzazi (Morocco) resumed the Chair.

24. Mr. A. A. MOHAMMED (Nigeria) said that the question which had just been asked was most pertinent. Paragraph 8 was not identical with article 15, paragraph 1 of the International Convention on the Elimination of All Forms of Racial Discrimination. When the question of privileges and immunities had been put to the Legal Counsel, the latter had said that the human rights committee was not a subsidiary organ of the United Nations. The Trusteeship Council, under Article 87 of the Charter, received petitions from the colonial countries. The Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, established in 1960 by General Assembly resolution 1514 (XV), was a subsidiary organ of the United Nations. He wondered whether a non-subsidiary organ could transmit petitions to a subsidiary organ. Moreover, in view of the existence of the Special Committee, there would be some risk of overlapping. It had therefore been deemed sufficient to safeguard the colonial peoples' right to continue to have the privilege of obtaining a hearing from the subsidiary organs of the United Nations. In reply to the question regarding paragraph 4 (ii) of article 41 bis, he emphasized that the line of conduct which the committee was to follow could not be dictated; rules could be drawn up gradually on the basis of experience. It had further been said that there was a contradiction between paragraphs 5 and 7. Such a contradiction did in fact exist, but it was the fault of those who were over-anxious to safeguard the rights of States. The purpose of paragraph 7 was to ensure a link between the human rights committee and the General Assembly. That committee would have to make reports in order to keep the United Nations informed of its activities. His delegation was prepared to withdraw the expression "confidentially" in paragraph 5, but wished to stress the importance of paragraph 7.

25. Mr. MIRZA (Pakistan) said that his delegation was a sponsor of the proposed new article because it considered that the right of individual petition should be recognized in the body of the Covenant and should be optional. However, the discussion of article 41 bis had shown that the Committee was deeply divided; some wanted the right of petition to be included in an optional clause of the Covenant, while others thought it should form a separate protocol. His delegation found it regrettable that those divergences should have arisen and in order to preserve harmony in both the Committee and the Afro-Asian group it would be prepared to adopt a more flexible position and consider the drafting of a separate protocol.

26. Speaking as the representative of Pakistan, he said the Committee should first choose between the principle of an optional clause in the Covenant itself and that of a separate protocol and then suspend consideration of the provisions concerning the right of individual petition for eight or ten days in order to allow a working group to prepared the protocol's text. His delegation would be prepared to take part in the work of that group and would do everything in its power to ensure that the text was ready within the shortest possible time.

27. Mr. EGAS (Chile) said the Pakistan representative was proposing that the Committee should consider a question of which it had not been seized. The Committee was now studying article 41 bis and it therefore could not take a decision with regard to anything but the amendment in document A/C.3/L.1402/Rev.2.

28. Mr. A. A. MOHAMMED (Nigeria) noted that certain delegations had indicated their preference for a separate protocol but that no formal proposal had been made. The question was an extremely important one but, in the absence of a formal proposal, it could not be decided by a vote.

29. Mr. ABOUL NASR (United Arab Republic) said that as far as paragraph 8 of article 41 bis was concerned the explanation given by the Nigerian delegation had not convinced him and he reserved the right to submit a sub-amendment reintroducing the missing provisions of article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination.

30. Mr. SANON (Upper Volta) said that in principle he was in favour of the right of individual petition. He felt, however, that certain provisions of article 41 bis as now worded, particularly paragraph 6, gave rise to difficulties. His delegation could not subscribe to provisions which infringed the sovereignty of States and paragraph 6 might limit the authority of national tribunals. He thanked the representative of Pakistan for the courageous and objective statement which he had made, and urged that a separate protocol should be drawn up.

31. Mrs. MALECELA (United Republic of Tanzania) and Mrs. SOUMAH (Guinea) also congratulated the representative of Pakistan and said that they too were in favour of a separate protocol.

32. Miss TABBARA (Lebanon) noted with regret that the Committee was deeply divided. In order to enable the Committee to decide whether, despite the many objections raised, it should include article 41 bis in the draft Covenant or, desiring to preserve unanimity, should accept the idea of a separate protocol, she formally proposed that the provisions of article 41 bis should be made the subject of a separate protocol.

33. Mr. NASINOVSKY (Union of Soviet Socialist Republics) said it was his understanding that the representative of Lebanon had already made a formal proposal to that effect at the preceding meeting. The Pakistan delegation was to be congratulated on the wisdom which it had displayed.

34. With regard to the explanations given by the Nigerian delegation, he recalled that at the 1435th meeting he had asked the Legal Counsel whether a body such as the human rights committee, which would be under obligation to report to the General Assembly, would be financed out of United Nations funds and would be entirely serviced through the United Nations should be regarded as an independent entity or as a subsidiary organ of the United Nations. The Legal Counsel had replied in the affirmative, noting, however, that as the human rights committee would be established not by the General Assembly but under the Covenant, some States might refuse to recognize it as a subsidiary organ of the United Nations. Nigeria was presumably among those States. His own delegation, however, held the opposite view and the majority of delegations seemed to agree with it.

35. Mr. KOCHMAN (Mauritania), supported by Mr. BECK (Hungary), said that as the representative of Lebanon had made a formal proposal, that proposal, under the rules of procedure, should be put to the vote.

36. The CHAIRMAN said that the Committee was now considering article 41 bis. The representative of Lebanon accepted the provisions of that article but would prefer them to form a separate protocol. The Committee should therefore take a decision on the Lebanese motion to the effect that the right of individual petition should be set forth in a separate protocol.

37. Mr. A. A. MOHAMMED (Nigeria) said that a wide consensus in favour of the provisions of article 41 bis had emerged and the only question remaining was that of the form in which those provisions should be presented.

38. He felt that the representative of the Soviet Union had given a tendentious interpretation of the Nigerian delegation's remarks, for they had had reference to the clarifications offered by the Legal Counsel when the United Kingdom amendment concerning privileges and immunities of members of the human rights committee and members of the ad hoc conciliation commission had been under discussion.

39. Mr. EGAS (Chile) said that the Committee, having spent a considerable amount of time examining article 41 bis, should first take a decision on that article. If it was adopted, the Committee should then decide whether the provisions involved were to be included in the Covenant itself or were to be placed in a separate protocol.

40. Mr. GROS ESPIELL (Uruguay) said that the question whether the right of individual petition should be recognized in a separate protocol would have to be decided only if the Committee rejected article 41 bis. He formally proposed that the Committee should vote on article 41 bis as it appeared in document A/C.3/L.1402/Rev.2.

41. Mr. HOVEYDA (Iran) said it was his understanding that the purpose of the Lebanese motion was to adjourn the debate on article 41 bis so that the Committee might decide whether the provisions of that article should appear in the Covenant or in a separate protocol.

42. Miss TABBARA (Lebanon) confirmed that her proposal was a motion for adjournment of the debate to enable the Committee to take a decision on the question of principle. Once that question was decided, the Committee would continue examining the text which it had before it. She proposed that the Committee should vote on the following motion: "The Committee decides to include the substance of article 41 bis relating to individual communications, in a separate protocol to be annexed to the draft Covenant on Civil and Political Rights".

43. Mr. EGAS (Chile) said that the Lebanese proposal had nothing whatever to do with article 41 bis and that the Committee could not take a decision on a question of which it was not seized.

44. Mr. DOMBO (Ghana) observed that the Lebanese representative's proposal was aimed at ensuring a majority vote. He wondered, however, if there really was a majority in favour of a protocol.

45. Mr. SCHAAPVELD (Netherlands) said that at that conjuncture it was not the right of petition itself which was at issue but the way in which it was to be guaranteed. The sponsors of document A/C.3/L.1402/Rev.2 had put before the Committee a clear proposal, namely that that right was to be guaranteed in an article of the Covenant under discussion. Lebanon had since made a new proposal, namely that that right be guaranteed in a protocol to be annexed to the Covenant. Article 132 of the rules of procedure was relevant to the order of those proposals. He proposed that the Committee should take a decision, not on the principle of the right of petition, which the wide majority of the delegations had acclaimed in their interventions, nor on the matter of the protocol the terms of which were not yet known, but on a very simple question derived from document A/C.3/L.1402/Rev.2 which could be formulated in the following words: "Is the principle of the right of petition to be incorporated in the Covenant?". If the Committee replied in the negative, that would mean that it accepted the principle of a separate protocol.

46. Mr. SAKSENA (India) said that the Netherlands motion could not be considered an amendment in the meaning of rule 131 of the rules of procedure; that proposal should therefore be put to the vote in accordance with rule 132, which meant that the Committee should vote first on the Lebanese proposal and then on the Netherlands proposal.

47. Mrs. HENRION (Belgium) said that her delegation could not vote on such a vague proposal; article 41 bis indicated in detail what the right of individual petition would consist of, whereas no one knew exactly what the protocol would contain.

48. Miss TABBARA (Lebanon) replied that if the Committee voted in favour of a separate protocol the sponsors of article 41 bis and other interested delegations should form a working group to draft a text very similar to that of article 41 bis. However, a

protocol would necessarily have to include other provisions as well. Also certain suggestions, particularly those of the representatives of Upper Volta and Tunisia, should be taken into account. It was therefore impossible to be more specific about the contents of the protocol.

49. Mr. ABOUL NASR (United Arab Republic) formally moved the closure of the debate on the Lebanese proposal.

50. Mr. PAOLINI (France) said that the Committee must vote separately on two different questions, namely: whether it accepted the right of individual petition as defined in article 41 bis and whether it wished the principle of individual communications to be the subject of a separate protocol? It could not choose between two alternatives by one and the same vote. For that reason he opposed the motion for closure of the debate.

51. Mr. GOONERATNE (Ceylon) also objected to the closure of the debate since he felt that the Committee could not choose between an article whose provisions were perfectly clear and a draft protocol whose contents were still unknown.

The motion for closure of the debate on the Lebanese proposal was adopted by 43 votes to 21, with 30 abstentions.

52. The CHAIRMAN invited the Committee to vote on the Lebanese proposal for a separate protocol.

At the request of the representative of Nigeria, a vote by roll-call was taken on the Lebanese proposal.

Panama, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Poland, Romania, Rwanda, Saudi Arabia, Senegal, Sudan, Syria, Thailand, Togo, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Upper Volta, Yugoslavia, Zambia, Afghanistan, Algeria, Bulgaria, Byelorussian Soviet Socialist Republic, Cameroon, Cuba, Czechoslovakia, Ethiopia, Guinea, Guyana, Hungary, India, Indonesia, Iran, Iraq, Japan, Jordan, Kuwait, Lebanon, Libya, Mali, Mauritania, Mongolia, Morocco.

Against: Panama, Philippines, Spain, Sweden, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Argentina, Australia, Austria, Belgium, Bolivia, Canada, Ceylon, Chile, Colombia, Costa Rica, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, France, Ghana, Guatemala, Honduras, Iceland, Ireland, Italy, Ivory Coast, Jamaica, Luxembourg, Mexico, Netherlands, New Zealand, Nigeria, Norway.

Abstaining: Portugal, Sierra Leone, Tunisia, Turkey, Brazil, Chad, China, Democratic Republic of the Congo, Cyprus, Gabon, Greece, Israel, Liberia, Malawi, Malaysia, Pakistan.

The Lebanese proposal for a separate protocol was adopted by 41 votes to 39, with 16 abstentions.

53. Mr. MIRZA (Pakistan) said that he wished to explain why his delegation had abstained in the vote on the Lebanese proposal. As a sponsor of document A/C.3/L.1402/Rev.2, he wished the right of petition to be the subject of an optional clause of the Covenant itself. However, out of consideration for the many delegations which favoured the principle of a separate protocol, his delegation had abstained in the vote.

54. Mr. GROS ESPIELL (Uruguay) said that the vote had certainly not produced the result expected by the Lebanese representative. The Committee was more divided than ever, since the Lebanese proposal had been adopted by a majority of only two votes. He had voted against the proposal as he could not vote in favour of a protocol the contents of which were still unknown.

Organization of work

55. The CHAIRMAN recalled that the Committee had decided to devote two meetings, on 1 December, to consideration of the draft Declaration on the Elimination of Discrimination against Women (agenda item 56), but that a third meeting had been planned and could be devoted to discussion of the draft protocol.

56. Mrs. HARRIS (United States of America) requested that the vote on the draft Covenant as a whole should be postponed to enable those delegations which so wished to submit that text to their Government. The Committee could revert to that item again on 7 December, in accordance with its proposed work programme.

57. Mr. NASINOVSKY (Union of Soviet Socialist Republics) fully endorsed the Chairman's suggestion that work on the draft Covenant should be completed at the next meeting.

58. The CHAIRMAN said that the Committee would take a decision on that matter at the beginning of its next meeting.

The meeting rose at 7.40 p.m.

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Litho in U.N.