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CONTENTS

Chairman: Mr. Humberto DIAZ CASANUEVA (Chile).

In the absence of the Chairman, Mr. Ghorbal (United Arab Republic), Vice-Chairman, took the Chair.

AGENDA ITEM 48

Draft International Covenants on Human Rights (A/2907 and Add.1-2, A/2910 and Add.1-6, A/2929, A/5411 and Add.1-2, A/5462, A/5503, chap. X, sect. VI; E/2573, annexes I-III; E/3743, paras. 157-179; A/C.3/L.1062, A/C.3/L.1180) (continued)

MEASURES OF IMPLEMENTATION (continued)

1. The CHAIRMAN said that most unfortunately he too would be unable to attend the meeting and hence he would not be able to replace Mr. Diaz Casanueva, the Chairman of the Committee; he therefore suggested that the Rapporteur be asked to take the Chair. He was fully aware of the importance of his task as an officer of the Third Committee, but he could not disregard certain duties required by his Government.

2. Mr. CUEVAS CANCINO (Mexico) said that he had no objection to the suggestion in view of the exemplary way in which the Rapporteur had carried out the Chairman's duties at the 1273rd meeting. However, the presence of the elected Chairman or, in his absence, the Vice-Chairman, was a tradition in all United Nations bodies, and the Mexican delegation hoped there would not be another departure from that tradition since that was justifiable only in exceptional cases.

3. The CHAIRMAN wished to make it quite clear that the circumstances were indeed exceptional and that both the Chairman and the Vice-Chairman were excusing themselves from the meeting only because they were really compelled to do so.

4. Noting that there was no objection, the Chairman invited the Rapporteur to take the Chair.

Mrs. Refslund Thomsen (Denmark), Rapporteur, took the Chair.

5. Miss PEARCE (New Zealand) pointed out that the draft Covenants would, in effect, make the rights and freedoms proclaimed by the Universal Declaration of Human Rights binding legal obligations and that the implementation provisions (E/2573, annex I) were therefore of particular importance. In drafting those provisions, the Commission on Human Rights had taken into account various points of view, ranging from the right of the individual to petition an international body directly, to the right of a State to decide for itself whether or not it was giving full effect to the provisions of the Covenants. The Commission had worked out carefully weighed formulas relating to the most practical and generally acceptable methods of making sure that the substantive articles of the draft Covenants were observed.

6. So far as economic, social and cultural rights were concerned, experience showed that improvement could only be gradual, and it was therefore appropriate and realistic to make provision, as in articles 17 to 25 of the draft Covenant on those rights, for progressive implementation in accordance with the nature of the rights defined. With respect to civil and political rights, the Commission had made provision, in articles 27 to 50 of the draft Covenant on those rights, for a system which was stronger and more politically sensitive. However, it was nothing new to international law: the ILO had long had such a system and both the Convention for the Protection of Human Rights and Fundamental Freedoms and the draft inter-American convention on human rights had similar procedures which were even more far-reaching.

7. Once again the Commission on Human Rights had taken into account the nature of the rights to be protected: it could not be said, for example, that the implementation of such provisions as that no one should be arbitrarily deprived of his rights, subjected to torture or held in slavery, or of the right of everyone to marry or to take part in the conduct of public affairs depended on economic and social conditions. Those rights were now regarded as fundamental to the legal system of every law-abiding society, whatever its stage of development. No doubt, many of the rights set forth in the draft Covenant on Civil and Political Rights were already being implemented in most of the States Members of the United Nations. It was appreciated that not every right could be stated without qualification, and it should be noted that many articles, for example article 19, permitted derogation in certain circumstances. The complaints procedure should therefore be considered in the light of the fact that, in most cases at any rate, the rights to be protected had been realistically expressed.

8. Taken as a whole, the implementation clauses reflected the desire of the Commission on Human Rights to strike a balance between concern for the protection of the individual and due regard for the position of States. The establishment of a committee of nine members seemed to be a sensible compromise between the need for efficiency and the reasonable desire for a body that was sufficiently representative. The Commission had tried to guarantee the objectivity and impartiality of the committee by providing for its election by the International Court of Justice; article 39 showed

another interesting example of a compromise made in order to avoid political accusations and counter-accusations, by providing in paragraph 2 that only the complaining State and the State complained against would have the right to be represented at the hearing on the complaint.

9. Her delegation might have some further observations to make when the Committee began the article-by-article examination of part IV of the two draft Covenants, but she wished to indicate at once that it supported the Indian representative's remarks concerning article 41 (1269th meeting).

10. In conclusion, she emphasized that the implementation articles prepared by the Commission on Human Rights appeared to represent a fair compromise between the rights of States and the rights of individuals. Her delegation's position would, however, depend on the final form in which those articles, and the draft Covenants as a whole, were adopted; in particular, she hoped that a reservations clause would be incorporated. She was aware that that was a complex question which was more relevant to part V of the draft Covenants, but she was alluding to it because her delegation's position during the voting could depend largely on the presence or absence of such a clause.

11. Mr. PRZETACZNIK (Poland) said that his delegation was aware of the importance of the draft Covenants and of the need to adopt them without delay, and was keenly interested in the discussion on the implementation clauses. Coming after the Universal Declaration of Human Rights, which confined itself to defining fundamental human rights, the draft Covenants aimed at ensuring respect for those rights and laying down, with as much precision as possible, the obligations of the contracting States; it was clear from article 2, paragraph 1, of the draft Covenant on Economic, Social and Cultural Rights and from article 2, paragraphs 2 and 3, of the draft Covenant on Civil and Political Rights—and he read out the relevant texts—that by ratifying the Covenants, States undertook to carry out all their provisions and recommendations.

12. His delegation had serious doubts concerning the implementation procedure described in articles 27 to 48 of the draft Covenant on Civil and Political Rights; the establishment of a Human Rights Committee, which in a sense would be supra-national, which could make recommendations concerning the protection of human rights to the United Nations, and which contracting States would have to recognize as being entitled to examine complaints on matters essentially within their domestic jurisdiction, would have many disadvantages, to which the representative of Mexico had already drawn attention (1268th meeting). On the one hand, the procedure of appealing to a Human Rights Committee did not conform to the requirements of international law, of which only States could be subjects. On the other hand, the system was inconsistent with the principle of national sovereignty recognized in Article 2 (7) of the United Nations Charter. The signatory States should take the necessary measures to carry out their obligations, and no State should be able to sit in judgement on the internal affairs of another State. That was the principle affirmed in article 2 of both draft Covenants which, moreover, fully recognized the right of individuals to enter appeals at the national level, if their fundamental rights were violated, and made it the duty of States to put an end to such violations. Finally, the formula proposed by the Commission was contrary to the principle of the sovereign equality of States laid down in Article 2 (1) of the Charter. That principle, like the principle of national sovereignty, was in opposition to the establishment of a supra-national authority. In support of his view, he read out a passage from the diplomatic dictionary of the Académie Diplomatique Internationale.

13. The measures provided for in certain regional pacts had been adduced in support of the implementation machinery proposed by the Commission on Human Rights; but such instruments were applicable in specific regions, which had common values and traditions, and quite clearly, procedures which were valid at the regional level, could not be equally valid at the international level. From a more practical point of view, the adoption of the system envisaged in the draft Covenant on Civil and Political Rights might lead to disturbance of the internal order of the weaker States: there was a likelihood of the great Powers attempting to interfere, as they had already done in the past, in the internal affairs of small countries, with the sole object of furthering their own political interests on the pretext of protecting human rights. The draft Covenants should be designed to encourage the development of international collaboration. For all those reasons, the Polish delegation could not subscribe to the machinery envisaged by the Commission on Human Rights, which had the twofold drawback of being dangerous from the practical point of view and contrary to the provisions of the Charter.

14. His delegation was not opposed in principle to the adoption of international implementation measures, but it considered that such measures could not go beyond the bounds of the Charter and should furthermore be in accordance with international practice. The fundamental maxim in international law, Pacta sunt servanda, applied to covenants as well as to all international conventions which were properly concluded, signed and ratified, and the States which were Parties thereto were obliged to adopt the necessary measures to implement principles not yet recognized by their respective legal systems. That obligation was no new one; as far as positive law was concerned, it was sanctioned, for instance, in the General Act of Berlin on slavery, which went back to 1890, and also in the third preambular paragraph of the United Nations Charter, and was recognized by decisions of both national and international courts. From the point of view of legal theory, every author from Gentilis to Cosentini, via Bodin and Vattel, agreed that duly-concluded international conventions had the force of law for the parties and must be regarded as inviolable. That principle had also been affirmed in the Convention on Treaties adopted by the Sixth International Conference of American States at Havana on 20 February 1928, in the draft concerning treaties which the American Institute of International Law had submitted to the Pan-American Union on 2 March 1925, in the Preamble to the Covenant of the League of Nations, and in quite a number of conventions concluded under the auspices of the United Nations, including the four Conventions of 1958 on the law of the sea,[1] the Vienna

[1] United Nations Conference on the Law of the Sea: Convention on the Territorial Sea and the Contiguous Zone; Convention on the High Seas; Convention on Fishing and Conservation of the Living Resources of the High Seas; Convention on the Continental Shelf (United Nations publication, Sales No.: 58.V.4, Vol. II).

Convention on Diplomatic Relations, 1961,[2] and the Vienna Convention on Consular Relations, 1963. Finally, the draft articles on the law of treaties adopted by the International Law Commission[3] did not provide for any kind of control by an international body of the obligations incumbent upon the contracting States, for there was no reason to assume in advance that the States Parties to a treaty would not fulfil their obligations. It was advisable to adhere to that international practice in the case of the draft Covenants, for there was nothing to warrant doubting the good faith of the signatory States a priori: in a system of international co-operation based on the sovereign equality of States, each signatory was responsible to the others for the manner in which it fulfilled its obligations.

15. The Polish delegation had always considered that civil and political rights and economic, social and cultural rights should be the subject of a single covenant; in that it supported the argument brilliantly presented by the representative of the Soviet Union (1273rd meeting), and it likewise considered that to establish two separate sets of implementation machinery was superfluous. He repeated that the implementation clauses should encourage not only respect for fundamental human rights, but also peaceful and friendly co-operation between States, and consequently they should be in accordance with generally recognized rules of international law and the principles of the United Nations; they should be based on the idea that, domestically, States were obliged to take the necessary legislative, administrative, social or other measures to ensure respect and protection for human rights. That obligation, supplemented by the obligation of States systematically to inform the United Nations of the measures which they were taking to give effect to the Covenants, would provide the necessary basis for safeguarding human rights.

Mr. Díaz Casanueva (Chile) took the Chair.

16. Mr. MONOD (France) recalled, first of all, that from the time it was established, the Commission on Human Rights had been empowered by a resolution of the Economic and Social Council of 21 June 1946, to submit "suggestions regarding the ways and means for the effective implementation of human rights and fundamental freedoms" and that when it had to opt between a convention and a declaration it had never actually made a choice: it had submitted to the Third Committee the text which had become the Universal Declaration of Human Rights, but, as far back as 1947, it had already outlined the first draft articles which were subsequently to become the subject of a convention. When, on 10 December 1948, the General Assembly in its resolution 217 E (III), requested the Commission on Human Rights to give priority to the preparation of a draft Covenant, it had therefore merely confirmed the decision taken two and a half years previously by the Council and already partly implemented by the Commission on Human Rights. The Universal Declaration and the draft Covenants had the same original stamp, the stamp of universality. The draft Covenants could not conceivably have been anything but juridical instruments expressing the rights and obligations of the community of nations towards individuals, wherever they might be; the idea of covenants binding a minority of States, like the idea of a declaration other than a universal declaration, was incompatible with the very essence of human rights.

17. In those circumstances, the duty of the Committee was to make possible the accession to the Covenants of the largest possible number of States, and to do nothing which threatened to jeopardize or retard such accession. Yet the French delegation found to its regret that in recent years the Committee had strayed so far from that ideal as to jeopardize any hope of universality. Those who had initially drafted the two Covenants had decided not to include anything alien to the rights of the individual considered as a subject of law; that was a very wise decision, for the important thing was to define and if necessary to protect those laws where they were stifled, disputed or ignored by the State. To define human rights was to fix the limits beyond which the community or the State was not entitled to go in its legal relationships with the individual; and collective rights, even where they did not run counter to the rights of the individual, were out of place in a convention on individual rights. That was the reason why the French delegation had opposed —vainly—the introduction in the draft Covenants of the first article, on the right of peoples to self-determination. To confuse collective and individual rights in the same instrument would do no service to either and, as Professor Charles de Visscher had stated in his book Theory and Reality in Public International Law, it would seem difficult to confuse values more completely and to wander further from the spirit in which the defence of human rights was contemplated. The Charter placed these rights in relations between the individual and internal public authority; it conceived of them as moral and legal limitations on the political action of the rulers. The right of national self-determination was a notion that belonged to an absolutely different order of ideas.

18. The drift towards conceptions alien to human rights had been further accentuated when, at the seventeenth session, the Third Committee had got the General Assembly to adopt the text which had become article 2 of the draft Covenant on Economic, Social and Cultural Rights and which stated that "Developing countries ... may determine to what extent they would guarantee the economic rights recognized in this Covenant to non-nationals" (see A/5365, annex). Inequality in economic conditions might admittedly give rise to disparities which it was just to correct by appropriate means, but those situations affected the community and in no way concerned individual rights. To use those situations as a pretext for inserting in the draft Covenant a piece of discrimination, in flagrant contradiction with the very spirit of the Covenants, namely the equality of individual rights, was tantamount to introducing a foreign body and the very negation of human rights; it was of the essence of human rights to appeal for protection against arbitrary intervention by the State; yet in the same article 2 that arbitrary power had been made into a rule, as if discrimination itself must henceforth be part of human rights. The French delegation expressed the hope that those clauses which were alien to the concept of human rights would be re-examined by the Committee and deleted from the draft Covenants, and would be transferred to the appropriate framework—particularly in the case of the first article of the two draft Covenants. Otherwise, the French Government would be forced to be-

[2] See United Nations Conference on Diplomatic Intercourse and Immunities, Official Records, Volume II: Annexes (United Nations publication, Sales No.: 62.X.I).

[3] Official Records of the General Assembly, Seventeenth Session, Supplement No. 9 (A/5209) and ibid., Eighteenth Session, Supplement No. 9 (A/5509).

lieve—and undoubtedly it would not be the only one to do so—that the intention had been to make the unanimous accession of States impossible; and it would have to draw the inevitable conclusions.

19. Having made that reservation, the French delegation was ready to continue participating constructively in the final work on the draft Covenants. The problem of the implementation clauses presented itself to the Third Committee in somewhat new terms for, in the ten years which had elapsed since the preparation of the draft articles, profound changes had occurred throughout the world which had modified the membership of the United Nations. Constitutional and legal problems, and the functioning of the legislative apparatus, the executive and even the civil service, to say nothing of social and economic factors, necessarily had an influence on the implementation machinery. The French delegation recognized the quality of the work performed by the Commission on Human Rights, but it realized that in the case of many articles there had been a minority opinion and, while it hoped that the idea underlying the preparation of the implementation clauses would be respected, it was sufficiently realistic to appreciate that new Members were entitled to request time to think about important provisions which they had not helped to draft.

20. Since his delegation had collaborated regularly in the work of the Commission on Human Rights, it did not intend to comment in detail on the implementation clauses. It would merely intimate its agreement with the remarks made by the Italian representative (1264th meeting) and repeat that, in order to ensure the effectiveness of the Covenants, the obligations they set forth must be accompanied by a system of control capable of ensuring that they were observed.

21. In his delegation's view, the important thing was not so much the qualities and defects of the system as its prospects of effective implementation: ultimately everything depended on the number of signatory States, that was to say, on the degree of universality of the Covenants. Article 51, paragraph 2, of the draft Covenant on Civil and Political Rights and article 26 of the other draft Covenant provided that the Covenants should enter into force as soon as twenty instruments of accession or ratification had been deposited; in the Commission on Human Rights the French delegation had voted against those articles, and it had not changed its opinion. Even at the time of their adoption, when the United Nations had far fewer Members than at present, those provisions had been inspired by a minority and anti-universalist conception to which the French delegation had always been opposed. The entry into force of the Covenants should create a new order, therefore a general and universal order. But ratification was a slow business and threatened to take a long time. If the General Assembly adhered to the arrangements adopted by the Commission on Human Rights, there might be an unfortunate stagnation for many years, during which only a limited number of States would be bound by the Covenants. That would be serious, for it might nip in the bud an idea which ought to spread throughout the world and become the law common to all nations. The French delegation did not confuse universality with unanimity, but it considered that, if the Covenants were to act as a beacon to the world, they should be very extensively ratified, and for that reason it considered that their entry into force by a two-thirds majority or at least by half the Members of the United Nations would be an objective both wise and feasible. It asked all delegations to consider that fundamental problem between now and the nineteenth session. If Governments could agree on that question, it would be a great step forward, and the solution of the other problems raised by the preparation of the Covenants would be greatly facilitated.

22. Mr. IONASCU (Romania) said that, in the several years during which it had endeavoured to complete the drafting of the provisions of both draft Covenants, the Committee had succeeded, thanks to the concern for mutual understanding among its members, in drafting the articles which it had already adopted in terms generally acceptable to all States, defining in a more specific and detailed manner the purpose of the Charter, namely "to achieve international co-operation ... in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion". Most of the articles, in addition to setting forth rights and freedoms, laid down the measures or juridical institutions whereby the States were to ensure the exercise thereof.

23. The adoption of those articles, by itself a remarkable feat, was even more remarkable because they had been drafted in a form which was the outcome of wide agreement, and constituted not only the definition of certain legal categories, but also a practical guide for States in the work which they undertook to carry out in order to ensure effective protection of fundamental human rights. Furthermore, the articles already adopted added to the traditional human rights, social, economic and cultural rights, without which the former threatened to remain a dead letter.

24. The implementation articles, which were dealt with in part IV of both draft Covenants, presented a tricky problem which should be solved in accordance with the Charter definition of collaboration between States in the field of human rights; as their common preamble indicated, both draft Covenants aimed at pin-pointing the provisions of the Charter so as to promote their implementation. The provisions of the Charter concerning human rights, after defining the general purposes of the United Nations in that respect (Article 1 (3) and Article 13 (1) b) defined the field in which international collaboration should promote universal respect for, and observance of, human rights (Article 55), that was to say, the field of economic and social co-operation. The Charter imposed on States the obligation to take joint and separate action in co-operation with the Organization for the achievement of international co-operation (Article 56), and went on to define the functions of the Economic and Social Council (Articles 62 and 68).

25. All those provisions indicated that the purpose of international co-operation should be to promote, develop and further respect for human rights, not to organize international protection of those rights; and furthermore that such co-operation should be carried out within the framework of the United Nations, under the auspices of the General Assembly, and through the Economic and Social Council and its subsidiary bodies.

26. That conception of international co-operation was moreover fully in accord with the principles of international law, according to which international law could not directly embody rights or obligations in respect of individuals, who were not the subjects of

international law but only of national law, and fundamental human rights and freedoms were the province of the municipal law of each State; those principles did not, however, exclude the possibility of States co-operating with each other in order to ensure respect for fundamental human rights through their domestic legislation.

27. The exclusive competence of the state as far as fundamental human rights was concerned was recognized even by jurists who, like Heffter, considered that such human rights existed independently of the State. Co-operation between States with a view to ensuring protection of human rights could therefore never imply that the individual could be recognized as a subject of international law, or conceded rights independently of his relations with the State of which he was a national. Those principles derived for example from a declaration adopted by the Institute of International Law in 1929 and from the works of a great number of jurists, including Fauchille. Lauterpacht also stressed that treaties which conceded special rights to nationals of one of the signatory States who were in the territory of the other did not create such rights, but imposed on the contracting States the obligation to create them through their municipal law.

28. Thus, with the protection of human rights established as being within the national competence of each State, the provisions of Article 2 (7) of the Charter applied; and they rendered impossible any interpretation of the Charter provisions on human rights likely to lead to United Nations interference in domestic legislation on that subject. That intention was perfectly evident from the debates during the drafting of the Charter. One proposal relating to the text of Article 55 had been rejected because it might have led the United Nations to intervene in matters within the domestic jurisdiction of States, while it had also been expressly specified that no provision of Chapter IX of the Charter conferred such power on the Organization. One of the sub-committees of the United Nations Conference on International Organization, at San Francisco, had also made clear, in the case of Article 1 (3) of the Charter, that the protection of fundamental rights was essentially a matter within the competence of each State, unless the violation of such rights represented a threat to peace or impeded implementation of the Charter. That opinion had been confirmed by such eminent jurists as Kelsen and de Visscher, who had emphasized that United Nations intervention in matters relating to respect for human rights could be justified only in the case of a flagrant and systematic violation of a kind calling for implementation of those provisions of Chapter VII of the Charter which provided for action by the Security Council. As Movoian had affirmed, human rights could be protected in international law only through the co-operation of States with a view to the adoption of domestic legislative measures, and not through any direct action by an international body which would constitute interference in the domestic affairs of States.

29. Any instruments set up within the United Nations to secure implementation of the provisions of the Charter must be in strict conformity with those provisions; otherwise they would be tantamount to a revision of the Charter. The measures of implementation of the draft Covenants must therefore be studied in the light of those considerations. Such measures could be divided into three categories. First, there was the system of reports to be submitted by States (articles 17 to 23 of the draft Covenant on Economic, Social and Cultural Rights, and article 49 of the other draft Covenant), to which the Romanian delegation had no objection in principle, since it considered that such reports would foster the adoption of measures by States and be a source of inspiration for each of them. Second, there was the lodging of complaints, provided for under article 40 of the draft Covenant on Civil and Political Rights, an innovation which was incompatible with the provisions of the Charter and the principles of international law. Third, there was the establishment under articles 27 to 45 of the draft Covenant on Civil and Political Rights, of a Human Rights Committee with powers that, in the Romanian delegation's view, would be incompatible with the provisions of the Charter. Such a body would in fact be a subsidiary organ of the United Nations and there could be no question of investing it with more extensive powers in the field of human rights than those conferred by the Charter on the General Assembly and the Economic and Social Council. Those latter powers were clearly limited, under Articles 13 and 62, to the preparation of studies and recommendations. Only the Security Council, under the terms of Articles 33 and 38 and of Chapter VII, was entitled, in situations which threatened international peace and security, to recommend procedures or take measures for the settlement of disputes. To give the Human Rights Committee the competence to deal with disputes other than those which threatened international peace and security—the only ones which entitled the United Nations to take action for the protection of human rights, as it had done in connexion with South Africa's policy of apartheid—would be to establish international control in matters reserved exclusively to the domestic jurisdiction of States and, thereby, to ignore the provisions of Article 2 (7) of the Charter and the principles of international law.

30. Nor could the Romanian delegation accept the provisions of article 46 of the draft Covenant on Civil and Political Rights, since they were contrary to the principle that jurisdiction of the International Court of Justice was optional, a principle advocated by the majority of Member States and in fact laid down in the Court's Statute, Article 36 of which stipulated that the jurisdiction of the Court comprised cases which the parties—that was, all the parties concerned in a dispute —referred to it. The principle that a dispute could not be taken before an international body except with the agreement of all the parties to it was also enshrined in a number of international conventions, some of which, including the Conventions of the law of the sea, were accompanied by an additional protocol, signature of which was optional and which alone committed the signatory States to submit to the jurisdiction of the Court. As late as the seventeenth session of the General Assembly the Third Committee itself had decided (1148th meeting), when adopting the text of the draft Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, to make the jurisdiction of the International Court of Justice optional by specifying that a dispute could be submitted to it at the request of all the States Parties to the dispute.

31. The Romanian delegation therefore considered that the only measures of implementation compatible with the provisions of the Charter and with the principles of international law were the submission of reports, provided for in articles 17 to 23 of the draft Covenant on Economic, Social and Cultural Rights and

in article 49 of the other draft Covenant, and the formulation when necessary of recommendations by United Nations organs. It also considered that the same system of implementation must be used for both draft Covenants, since genuine respect for civil and political rights could be secured only through the achievement of the economic, social and cultural rights which were their material basis.

Organization of work

32. The CHAIRMAN noted with some concern that the new Member States had not yet taken part in the general discussion on the implementation clauses of the Covenants. In that connexion he recalled that there had been profound changes in the world and in international law in particular since the draft Covenants had first been drawn up by the Commission on Human Rights. Moreover, only a few representatives had announced their intention of speaking on the present agenda item and some of them would not be ready to speak before 3 December. In those circumstances he believed that the Committee should decide on its future work in order not be become involved in a debate which, despite its undeniable interest, might not lead to practical results.

33. The Committee had four possible choices. It could postpone discussion of the draft Covenants until the nineteenth session and meanwhile transmit the relevant documentation, particularly the records of the debates of the eighteenth session, to Governments to study and possibly comment upon. In that case, the Committee would pass on to the next item on its agenda. On the other hand, it could examine article by article those parts of the draft Covenants which contained implementation clauses. Third, it could examine any specific proposals which delegations might like to submit on the actual substance of the problem. Last, the Committee could study those amendments already submitted which did not concern the substance of the articles concerned.

34. Mr. BAROODY (Saudi Arabia) recalled that the Committee had felt, reasonably enough, that it would be premature to begin consideration of the implementation clauses of the draft Covenants before it had adopted the substantive articles. As the new Member States had played no part in the drafting of those substantive articles, the measures of implementation raised particularly thorny problems for them, so that it would be unwise to rush into voting. In his opinion, those States should be given all the time they needed to consider in detail not only the measures of implementation but the draft Covenants as a whole, for the latter would be legally binding international instruments that would impose specific obligations on them.

35. The Committee should therefore continue the general debate, for that would give every delegation an opportunity of stating its views and provide the documentation. Until all views had been formulated, it would not be possible to make a synthesis of the debate and define the main ideas which would provide a solid basis for the continuation of the Committee's work.

36. He would speak again later, although his remarks might sound a different note from those of the previous speakers, most of whom were eminent and learned jurists. In his delegation's opinion, the Committee should show boldness and a pioneering spirit where the measures of implementation were concerned. In order to draft texts which would command unanimous support, the Committee must avoid the Scylla of excessive respect for State sovereignty, and the Charybdis of the utopian concept of a world federation. The only way to achieve the desired universality was to choose a middle way between the two.

37. He did not favour the Chairman's fourth alternative, for States, particularly new Member States, were not in a position to vote on specific amendments at the present session, however constructive those amendments might be.

38. Mr. CAPOTORTI (Italy) said that he did not share the Saudi Arabian representative's view, and he did not feel that the Chairman's pessimism about the outcome of the debate was justified. In his opinion, the current debate had done much to clarify some fundamental issues. Indeed, it had clearly shown that most members of the Committee found the content of the measures of implementation in the draft Covenant on Civil and Political Rights unacceptable, but that they had no objection to the reporting system laid down in the draft Covenant on Economic, Social and Cultural Rights. A thorough study of that system might, therefore, provide a useful basis for considering the problem under discussion.

39. In his view, it would be advisable to restrict the scope of the discussion in order to avoid complication and confusion. As many delegations had said that they were prepared to consider the implementation clauses in the draft Covenant on Economic, Social and Cultural Rights, he suggested that the Committee should immediately take up the first of the relevant articles, article 17, which established the reporting system. It would then see how far that system was supported by delegations and how it could be improved. Delegations would still be free to submit draft resolutions to the Committee, whether they related to the substance of the problem or not.

40. On the other hand, he did not see any advantage in transmitting the documentation relating to the draft Covenants to the Governments of Member States and inviting them to submit comments. The very structure of the draft Covenants, the idea of having two Covenants, and other equally fundamental issues might be reopened, and that would destroy years of patient and constructive work.

41. Mr. DELGADO (Senegal) remarked that he had not yet spoken in the general debate on the measures of implementation of the draft Covenants because he had felt that, as the representative of a new Member State, he would do better to listen to his elders and augment his knowledge of the problems involved. Furthermore, his delegation was not yet in a position to make a positive contribution to the debate. The problem under discussion was of capital importance to all new Member States and, in general, to all under-developed countries which should be given time for reflection before they took up a final position. For that reason, the Committee ought to adjourn the debate on the draft Covenants and take up the other items on its agenda. The relevant documents and the summary records of the debate on the draft Covenants should be transmitted to Governments so that, when the Committee opened its debate on the measures of implementation at the nineteenth session, positions would be better defined. That could not but make for more efficient and rapid work. For those reasons, he was unable to support the suggestions made by the representatives of Italy and Saudi Arabia.

42. Mr. OUEDRAOGO (Upper Volta) said he partly shared the view of the representative of Senegal. The

delegations of new Member States had deliberately kept silent during the debate because they could contribute nothing constructive to it and because of the seriousness of the problem under discussion. They were grateful to the Chairman for having understood the reasons for their silence.

43. Nevertheless, he felt that the Committee would be well advised to continue the general debate. Together with the documentation to be subsequently transmitted to Governments, the Secretariat might submit a summary of the debate showing its main trends. By the nineteenth session, Governments would have decided on their positions and the Committee would be able to adopt articles which would achieve the desired objective—the effective implementation of the Covenants.

44. Mrs. RAMAHOLIMIHASO (Madagascar) observed that the debate had clearly shown the complexity of the problem of implementation. The new Member States which had had no part in the preparation of the draft Covenants, needed time to reflect before taking up a position. It would therefore be premature to take up part IV of the draft Covenant on Economic, Social and Cultural Rights article by article. She appealed to the Committee to understand the difficulties facing the delegations of new Member States.

45. Miss GROZA (Romania) announced that, if the Committee decided to go on to item 4 of its agenda, her delegation would submit a draft declaration on measures designed to promote among youth the ideals of peace, mutual respect and understanding between peoples. She was grateful to the Committee for deciding at the beginning of the session to give a high priority to that item.

46. Mrs. MANTZOULINOS (Greece) recalled that in resolution 958 D II (XXXVI), the Economic and Social Council had expressed the hope that the Third Committee would devote, at the eighteenth and subsequent sessions of the Assembly, the maximum possible time to the completion of its work on the draft Covenants. It was with that resolution in mind that the Committee had decided, at the beginning of the present session, to devote twenty-five meetings to the consideration of the draft Covenants. As it still had eight meetings to devote to that agenda item, and as the implementation clauses of the draft Covenant on Economic, Social and Cultural Rights seemed to be acceptable to most members of the Committee, she felt that the Committee should adopt the Italian representative's suggestion.

47. Mr. DELGADO (Senegal) said that, although he still felt that it was not absolutely necessary to continue the general debate, he supported the Saudi Arabian representative's suggestion which had been endorsed by the delegations of Madagascar and Upper Volta. However, there could be no question of the Committee's voting on amendments of any kind.

48. Mr. CHAKCHOUK (Tunisia) formally moved the adjournment of the meeting.

49. The CHAIRMAN noted that two major trends had emerged from the procedural discussion. On the one hand, the Italian delegation proposed that the Committee should take up the measures of implementation of the draft Covenant on Economic, Social and Cultural Rights; on the other, the delegation of Saudi Arabia, supported by the delegations of Senegal, Madagascar and Upper Volta, suggested that the Committee should continue the general debate, but without taking any decisions, and that the relevant documents should be transmitted to Governments. He invited the supporters of those two alternatives to make formal proposals at the 1275th meeting, so that the Committee could decide between them before proceeding with its work.

50. Mr. MELOVSKI (Yugoslavia) wondered whether it would be wise to take a decision at the 1275th meeting, before the representatives scheduled to speak on 2 and 3 December had made their statements. In the meantime, the Committee could perhaps take up the next item on its agenda.

51. The CHAIRMAN put to the vote the Tunisian motion for the adjournment of the meeting.

The Tunisian motion for the adjournment of the meeting was adopted unanimously.

The meeting rose at 1.30 p.m.

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