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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 ECONOMIC,
 SOCIAL AND CULTURAL RIGHTS (continued)
 (A/2929, CHAP. IX; A/5411 AND ADD.1-2,
 A/5702 AND ADD.1, A/6342, ANNEX II.A, PART
 IV; A/C.3/L.1357 AND ADD.1)

1. The CHAIRMAN invited the Committee to continue its consideration of the new article proposed in document A/C.3/L.1357, which had provisionally been numbered 25 *bis*. She also drew attention to document A/C.3/L.1357/Add.1, in which eight further sponsors were listed.
2. Mr. QUADRI (Argentina) said that the amendment in document A/C.3/L.1357 and Add.1 created a difficult situation. The new article differed considerably in its wording from article 1, paragraph 2 of the Covenant, which it modified in substance instead of completing it. Moreover, the new article should be inserted, not in part IV, relating to implementation, but in part I, which had already been adopted. Finally, since the right in question related to the sovereignty of peoples, and could not be limited or called in question by any international instrument, it would be absurd to adopt an article which implicitly recognized that the Covenant might impair the right.
3. Mrs. AFNAN (Iraq) said that the sponsors of the amendment had not sought to modify article 1. She observed that that article, while declaring the right of peoples to dispose of their natural resources, attached certain restrictions to the right whereas nothing in the Covenant should be construable as limiting so fundamental a right.
4. Mr. FERNANDEZ DE COSSIO RODRIGUEZ (Cuba) supported the proposed new article in document A/C.3/L.1357 and Add.1, which clarified article 1 by asserting the right of peoples to dispose of their

natural resources without any restriction whatsoever. He was not surprised at the negative attitude of various countries, in particular the United States, which defended the odious rights of capitalism and sought to appropriate the natural resources of the developing countries.

5. Mr. ATASSI (Syria) said that he wished to provide some explanation concerning the proposed article. At the representative of Iraq had pointed out, the right of peoples to dispose of their natural resources was asserted in article 1, but with reservations. The obligations arising out of international economic co-operation could be differently interpreted by the countries concerned and the ultimate victory would lie with the strongest, with the result that the rich countries would become increasingly richer at the expense of the developing countries. It was necessary to establish the right of peoples to use their natural resources so that the capitalist countries might not be able to perpetuate their dominion on the pretext of international economic co-operation.

6. Mrs. SOUMAH (Guinea) shared the view that it was useful to reassert the right of peoples to utilize their natural resources and remarked that the new article defined that right more clearly. She was not surprised that some countries should object to the amendment.

7. Mr. NAÑAGAS (Philippines) said he believed that the new article was appropriate in the Covenant; its alleged incompatibility with article 1 was more apparent than real. The right in question was an essential element of State sovereignty and should be established as a basic and primary right from which article 1, paragraph 2, of the Covenant derived its existence and validity.

8. Mr. TEKLE (Ethiopia) endorsed the views of the Iraqi representative. The arguments advanced against the new articles were not new and it was natural for some countries to regard recognition of the right of peoples to dispose of their resources as detrimental to their interests. But it was no less natural for the under-developed countries to seek to protect their resources against the imperialist Powers which sought to exploit them under the cloak of technical assistance or international economic co-operation. For those reasons Ethiopia wished to be included among the sponsors of the amendment in document A/C.3/L.1357 and Add.1.

9. Mr. GOONERATNE (Ceylon) said that at the time of the adoption of the first articles of the draft Covenant the membership of the United Nations had not been the same as it was at present. That was the reason for the restrictions in article 1, which amounted in fact to substituting for a people's right to sovereignty

over its natural resources the right not to be deprived of its own means of subsistence. Now, however, the absolute right of all peoples to dispose of their natural resources had been established by the international community, as was proved by a recent General Assembly resolution, and it was natural that the Covenant should take account of that development. He proposed that the words "and of all nations" should be inserted in the new article after the words "of all peoples", in conformity with the wording used in the resolutions on the subject.

10. Mr. RUMBOS (Venezuela) said that while he still supported the amendment in document A/C.3/L.1357 and Add.1, of which he was a sponsor, he nevertheless wished to make some suggestions; a more thorough study of the new article had led him to conclude that it was perhaps somewhat ambiguous in form. One could not assert the principle of national sovereignty without taking account of the obligations arising out of international economic co-operation based on the principle of mutual interest and of international law. The world had gone beyond the phase of isolationism and the interdependence of all States, particularly on the economic level, had to be recognized. It was therefore natural to reassert that the sovereignty of States should not be limited save by the exigencies of international economic co-operation and international law. He therefore suggested that the following words should be added at the end of the new article: "... without prejudice to the provisions of article 1, paragraph 2, of the present Covenant". The other sponsors had rejected that suggestion but, should the Committee view it favourably, his delegation would offer it as a sub-amendment.

11. He felt, unlike some representatives, that certain principles were more important than others and that it was therefore legitimate to state that no provision of the Covenant should impair a more important principle. That, incidentally, was what had been done in article 25 in connexion with the Charter. He suggested that the new article should be inserted before article 25, in order that the article containing the most important principle should be placed in conclusion.

12. Mr. DESETA (Brazil) supported the amendment in document A/C.3/L.1357 and Add.1 and also the Venezuelan representative's suggestion. The principle recognized in the new article was in any case not new and already appeared in other international documents.

13. Mr. LUKYANOVICH (Byelorussian Soviet Republic) considered the new article essential because it developed and affirmed the general principle enunciated in article 1. It corresponded, moreover, to a current concern of the United Nations, which had for some time been seeking to guarantee the principle of the sovereignty of peoples over their natural resources. In his view, it would be more logical to insert the new article after article 25, as the sponsors of the amendment had suggested. He suggested that the Committee might proceed to vote on the proposed article.

14. Mr. N'GALLI-MARSALA (Congo, Brazzaville) supported the remarks of the representative of Iraq. He observed that, as might have been expected, the

imperialist Powers were alone in opposing the amendment.

15. Lady GAITSKELL (United Kingdom) recalled that the representative of Iraq had made it clear, at the previous meeting, that the purpose of the new article proposed in document A/C.3/L.1357 and Add.1 was to redress the effect of article 1, paragraph 2, of the draft Covenant. She was grateful to the representative of Iraq for having explained so forthrightly the reasons why her delegation had joined in sponsoring the amendment.

16. In her delegation's view, the amendment raised difficulties of principle and also of procedure and language.

17. Whereas it was quite legitimate to include in the implementation clauses of an international instrument an article safeguarding basic existing texts such as the Charter of the United Nations or the constitution of a specialized agency, it would be highly questionable to seek to insert a clause which would derogate from the provisions of a substantive article or alter their scope, and thus introduce a contradiction in a very important instrument. How could a text containing conflicting articles on a single point be interpreted? How could the scope of the obligations assumed by the signatory States be determined if the implementation clauses contained an article which, in the admission of one of the sponsors, was designed to modify the effect of a substantive article? The adoption of the proposed article would create a precedent; anyone might reopen the discussion on the various substantive articles already adopted and alter them by proposing new implementation clauses. Her delegation considered that procedure quite improper and could not support the amendment.

18. It had been said that article 25 bis would clarify article 1, paragraph 2. Several delegations seemed to feel that the latter provision, as now drafted, was outmoded, and that the principle of sovereignty over natural resources should be recognized as absolute and should not be subject to qualifications relating to obligations arising out of international law and the principles of economic co-operation and mutual benefit. She did not think that a majority in the General Assembly would be able to accept that view. Those principles were in fact basic to much of the work being done by international organizations for the purpose of harnessing natural resources to economic and social development. Her delegation could not believe that the sponsors of the amendment were deliberately jettisoning the obligations arising out of international economic co-operation, mutual benefit and international law. Yet that was the impression given by that text. The problem of interpretation was a serious one because it was unthinkable that a lasting international instrument should be drafted in equivocal terms.

19. The question of the sovereignty of peoples over their natural resources was certainly a most important one. Her delegation understood the keen interest of certain Member States in the matter. However, it was already being considered by the 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among

States, the Sixth Committee and the Second Committee. After long discussions, the General Assembly had finally adopted resolution 1803 (XVII), which had been supported by all but one of the groups. The Third Committee would not be making any constructive contribution by suddenly inserting a new formula into the implementation clauses of the draft Covenant by means of the amendment under discussion.

20. Mr. DAS (Malaysia) observed that some delegations, although they were against the inclusion of the proposed new article, seemed nevertheless to agree that the text was based on a principle identical to that already embodied in article 1, paragraph 2, other delegations felt that the principle of the right of peoples to dispose of their own natural resources should be reaffirmed more forcefully. He did not feel that the two viewpoints were very far removed from each other and he hoped that the opponents of the proposal would find a formula which would enable them to cast an affirmative vote. His delegation, for its part, was in favour of the insertion of article 25 bis in the draft Covenant.

21. Mr. OLCAY (Turkey) said that he could not refrain from recalling, in connexion with the problem before the Committee, the notorious Capitulations which his country had had to endure until a relatively recent date. The Turkish delegation had found article 1, paragraph 2, acceptable since it had not felt that the qualifications therein could lead to a new system of Capitulations. It wondered now, however, whether those qualifications might not be interpreted as allowing limitations on the right in question. It would therefore have no hesitation in voting in favour of the new article proposed on document A/C.3/L.1357, and Add.1.

22. Mr. ALLAOUI (Algeria) strongly supported the new article and said that his country had become a sponsor of the amendment. The right of peoples to the enjoyment of their natural resources was affirmed unambiguously in that text, whereas it was enunciated with qualifying restrictions in article 1, paragraph 2. He drew attention to the fact that several countries now represented on the Committee had not taken part in the preparation of part I of the draft Covenant.

23. Mrs. OULD DADDAH (Mauritania) said that her country had become a sponsor of the amendment, which was a most important one. Article 25 contained safeguards of a legal nature. However, there could be no hope of ensuring respect for the rights set out in the Covenant without taking into account their fundamental economic basis. In her delegation's view, article 25 bis provided a valuable supplement to article 25, with which it formed a whole. The economic obligations dealt with in the new article were as important as other obligations.

24. Mr. MOMMERSTEEG (Netherlands) said that he could support the general principle underlying the new article, but feared that the adoption of that article would create serious problems, particularly with regard to procedure, since it would be equivalent to amending article 1, paragraph 2. Moreover, his delegation felt that the provision had no place in a part of the Covenant dealing with measures of implementation. The question of the right of peoples to

dispose of their natural resources was, moreover, on the agenda of the Second Committee, which would shortly have before it a draft resolution reaffirming the principles set forth both in General Assembly resolution 1803 (XVII) and in part I of the draft Covenant under consideration. For those reasons, his delegation could not support the amendment.

25. Mr. KOITE (Mali) said that the various statements made had shown clearly that it was absolutely essential that the proposed article should be included in the draft Covenant, and he would be grateful if those wishing to formulate reservations in that connexion would try to understand the sponsors' motives. He saw no reason why a principle already set forth in article 1, paragraph 2, should not be stated in a separate article. His delegation hoped that the proposed article would be adopted, for it was deeply attached to the principle of the sovereignty of States over their natural resources.

26. Mr. AMIRMOKRI (Iran) said that his country had always respected the obligations arising from international co-operation, as was shown, for example, by the Iranian legislation relating to foreign capital. The right of peoples to dispose freely of their natural resources was, however, a sacred right and the question was of particular importance in the modern era, when the neo-colonialists were trying to destroy the independence of the developing countries through economic intervention. The question could only be settled by a vote.

27. Mrs. SEKANINOVA ČAKRTOVA (Czechoslovakia) stressed that the principle under consideration was one of the most important set forth in the Covenants. It seemed logical to strengthen the provisions of article 1, for any emphasis placed upon the right of peoples to dispose of their natural resources could not but contribute to the development of economic co-operation on a solid foundation. The fact that the question was being considered by the Second Committee and had been the subject of a General Assembly resolution, as the Netherlands representative had pointed out, merely emphasized the importance of the problem. It was, moreover, significant that the list of those sponsoring the amendment was increasing. Her delegation fully supported the amendment.

28. Mr. HANABLIA (Tunisia) said that in his opinion it was quite natural to insert the proposed new article after article 25. It was obvious that a country could not be master of its fate unless it was completely free to utilize and enjoy its natural resources. Some delegations had invoked the provisions of article 1 as an argument against the new article. His delegation was certainly not opposed to international economic co-operation, but he felt that certain obligations were no longer valid. Furthermore, other United Nations organs were now studying the forms which such co-operation might take in the future and it would be prejudging the question to mention at the present stage the obligations deriving from international co-operation and international law. In his delegation's view, article 25 bis made article 1, paragraph 2, more explicit.

29. Mr. BENGTSOON (Sweden) agreed with the Netherlands representative that it was difficult to take a

decision which might prejudice the result of the Second Committee's work. He therefore suggested that the consideration of the question should be postponed.

30. Mr. RIOS (Panama) said that all peoples needed to enjoy their natural resources fully in order to progress, and there did not seem to be any grounds for opposing a principle which was in fact dear to all countries, and not to the developing countries only. Some representatives seemed to fear that the proposed article would be a source of confusion, but the idea was certainly not a new one: it had already appeared in a number of United Nations documents and was to be restated in a draft resolution soon to be submitted to the Second Committee. Others had alleged that the adoption of such an article might be prejudicial to international co-operation, but that concern seemed unfounded, since each State retained its sovereign prerogatives and remained free to conclude with other States agreements which could lead to a sharing of natural resources. The principle of sovereignty had evolved, but it remained valid.

31. Mr. PAOLINI (France) said that the debate had brought out the various disadvantages of the proposed new article. First, it raised technical difficulties: the United Kingdom representative had rightly pointed out that a Covenant could not contain contradictory provisions. Secondly, while understanding and respecting the desire of peoples to exercise sovereignty over their natural resources, his delegation felt that it was difficult to make that right absolute, for that would run counter to the interests of the developing countries themselves. In fact, it was the countries which were the richest in natural resources which would derive the greatest benefit from a right stated in such absolute terms.

32. Only the negative aspects of international co-operation had been mentioned during the debate. It was unfortunate that no reference had been made to development assistance, or to the manifestations of solidarity between rich and poor countries, which represented the positive aspects of international co-operation.

33. He endorsed the Venezuelan representative's proposal and hoped that it would be submitted as a sub-amendment to document A/C.3/L.1357 and Add.1.

34. Mr. GESTRIN (Finland) said that the new article proposed in document A/C.3/L.1357 and Add.1 set forth a right as essential as that of self-determination and therefore deserved careful consideration. The right of peoples to enjoy their natural resources was in no way incompatible with the obligations deriving from international co-operation; on the contrary, it constituted the essential basis for all international co-operation. His delegation felt, however, that the proposed article would be out of place in the articles of implementation, for it impaired their clarity and unity and might cause difficulties in the future.

35. Mr. VALDERRAMA (Colombia) said that the proposed article would usefully supplement the second part of article 1, paragraph 2, which stated: "In no case may a people be deprived of its own means of subsistence". He would therefore support the amendment.

36. Mr. N'GALLI-MARSALA (Congo, Brazzaville) moved the closure of the debate.

37. The CHAIRMAN said that in accordance with rule 118 of the rules of procedure two speakers opposing the closure would be allowed to speak before the motion was put to the vote.

38. Mr. BEEBY (New Zealand) thought that the right of peoples to dispose of their natural resources was a principle essential to the development of all countries without exception but that, however important such a principle might be, it should not be mentioned in the articles on measures of implementation of the Covenant on Economic, Social and Cultural Rights. It should be set forth in the general clauses or in the substantive articles.

39. Moreover, in addition to the fact that the text proposed was incompatible with the provisions of article 1, paragraph 2, it should be borne in mind that the right under consideration had already been the subject of a declaration by the General Assembly, that a draft resolution on the subject was going to be submitted to the Second Committee and that the Sixth Committee was examining the question and giving particular attention to its legal aspects. He thought that it would be preferable to leave it to those specialized bodies to study such a complex question in greater detail.

40. There would certainly be some way of reaching a constructive solution and it would be helpful if delegations could consult one another to that end. He therefore asked the delegation of the Congo (Brazzaville) to withdraw its motion in order to allow the Committee time to prepare a text that would meet with unanimous approval.

41. Mr. CAPOTORTI (Italy) said that he wholeheartedly endorsed the remarks of the New Zealand representative. There was undoubtedly a majority of delegations that were prepared to support the text proposed; but the Committee would be wrong to ignore all the objections which had been voiced and proceed to a vote. In so doing it would be choosing an oversimplified solution which did not take into account the many problems to which the right of peoples to enjoy their natural wealth and resources gave rise. Other bodies of the United Nations particularly the Second and Sixth Committees, were considering the question and some interesting proposals had been submitted to the 1966 Special Committee on the Principles of International Law concerning Friendly Relations and Co-operation among States, by the delegation of Kenya, in particular. It was not by hastily including an article relating to the right of peoples to dispose of their natural resources in the draft Covenant on Economic, Social and Cultural Rights that the Committee would make a constructive contribution to the work of the United Nations in that field.

42. It must not be forgotten that the draft Covenant was the result of many years of efforts and that the future of that instrument might be compromised if such a controversial clause were included in it. The sponsors of the amendment could of course win an easy victory, but it would be an illusory one. It would

therefore be preferable to try to find a formula which all delegations could support.

At the request of the Cuban representative, the vote on the motion for closure of the debate was taken by roll-call.

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

In favour: Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Yugoslavia, Zambia, Afghanistan, Albania, Algeria, Bolivia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Chad, Colombia, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Cyprus, Czechoslovakia, Ethiopia, Ghana, Guinea, Guyana, Hungary, Iran, Iraq, Jamaica, Jordan, Kenya, Kuwait, Libya, Mali, Mauritania, Mongolia, Morocco, Nepal, Panama, Peru, Poland, Romania, Saudi Arabia, Somalia, Sudan, Syria.

Against: United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Australia, Austria, Belgium, Canada, Denmark, Finland, France, Honduras, Iceland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Sweden, Turkey.

Abstaining: Upper Volta, Uruguay, Argentina, Ceylon, Chile, China, Costa Rica, Dahomey, Ecuador, Gabon, Greece, Guatemala, India, Indonesia, Israel, Liberia, Madagascar, Malaysia, Mexico, Niger, Nigeria, Pakistan, Philippines, Rwanda, Senegal, Sierra Leone, Spain, Thailand, Togo, Tunisia.

The motion for closure of the debate was adopted by 48 votes to 21, with 30 abstentions.

43. The CHAIRMAN invited the Committee to vote on the new article 25 bis (A/C.3/L.1357 and Add.1) proposed for inclusion in the draft Covenant on

Economic, Social and Cultural Rights. She announced that Ethiopia, Kuwait, Liberia, Mali, Rwanda, Saudi Arabia, Syria and Zambia should be added to the list of sponsors.

At the request of the representative of the United Arab Republic, the vote was taken by roll-call.

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

In favour: Hungary, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kenya, Kuwait, Liberia, Libya, Madagascar, Malaysia, Mali, Mauritania, Mexico, Mongolia, Morocco, Nepal, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Somalia, Spain, Sudan, Syria, Thailand, Togo, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Uruguay, Venezuela, Yugoslavia, Zambia, Afghanistan, Albania, Algeria, Bolivia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Ceylon, Chad, Chile, China, Colombia, Congo (Brazzaville), Congo (Democratic Republic of), Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Ecuador, Ethiopia, Ghana, Guatemala, Guinea, Guyana, Honduras.

Against: New Zealand, Norway, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Iceland, Israel, Italy, Japan, Luxembourg, Netherlands, Niger, Portugal, Sweden, Upper Volta, Argentina, Australia, Austria, Belgium, Canada, Denmark, Finland, France, Gabon, Greece.

Article 25 bis was adopted by 75 votes to 4, with 20 abstentions.

The meeting rose at 1.55 p.m.