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CONTENTS

Chairman: Mrs. Halima EMBAREK WARZAZI (Morocco).

AGENDA ITEM 62

Draft International Covenants on Human Rights (continued)

FINAL CLAUSES OF THE DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (continued) (A/2929, CHAP. X; A/5702 AND ADD.1, A/6342, ANNEX II.A, PART V; A/C.3/L.1352, A/C.3/L.1353/REV.1, A/C.3/L.1359, A/C.3/L.1367, A/C.3/L.1368 AND ADD.1, A/C.3/L.1369-1372, A/C.3/L.1374)

1. Mrs. HARRIS (United States of America), introducing her delegation's amendments to article 26 (A/C.3/L.1372), said that they contained no innovations of substance and had been submitted simply in order to facilitate the discussion in the Committee. Article 26 of the draft Covenant on Economic, Social and Cultural Rights as drafted by the Commission on Human Rights (A/6342, annex II.A, part V) dealt with four separate matters: the eligibility of States to become parties to the Covenant, ratification or accession, entry into force and notification by the Secretary-General. In her delegation's view, article 26 should deal with only the first two of those matters and new articles 26 bis and 29 bis should deal with the third and fourth.

2. The first part of paragraph 1 of her delegation's redrafting of article 26, dealing with the eligibility of States to become parties to the Covenant, was in substance identical with the corresponding part of paragraph 1 of the United Kingdom amendment (A/C.3/L.1352), but in form followed article 17, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination. Paragraphs 2, 3 and 4 of her delegation's amendments, dealing with ratification and accession, were based on articles 17 and 18 of the Convention. The term "acceptance" used in the United Kingdom amendment had been replaced by "ratification" and "accession" because, as the International Law Commission had stated in its report on its eighteenth session: "...on the international plane, 'acceptance' is an innovation which is more one of terminology than of method. If a treaty provides that it shall be open to signature 'subject to acceptance', the process on the international plane is like 'signature subject to ratification'. Similarly, if a treaty is made open to 'acceptance' without prior signature, the process is like accession". 1/ It was therefore clear that the terms "ratification" and "accession" were used in the international sense and implied no prejudgement as to any State's domestic procedures.

3. The proposed article 26 bis took no position on the question of the minimum number of ratifications necessary for the Covenant to enter into force.

4. The fourth matter, notifications by the Secretary-General, was dealt with in her delegation's article 29 bis (A/C.3/L.1374), which was based on article 24 of the International Convention on the Elimination of All Forms of Racial Discrimination.

5. Mr. AMIRMOKRI (Iran), referring to the question of the minimum number of ratifications which should be required for the Covenant to enter into force said that his delegation considered twenty too few, whereas fifty would unduly delay the application of the Covenant. His delegation therefore supported the number thirty proposed in document A/C.3/L.1371.

6. While his delegation could support paragraph 2 of the United Kingdom amendment (A/C.3/L.1352), it thought that paragraph 3, if adopted, might indefinitely delay the Covenant's entry into force. In view of the trend in the Committee favouring an increase in the number of ratifications required, his delegation proposed that the phrase "as soon as twenty instruments of acceptance have been deposited without reservations" in that paragraph should be replaced by "three months after the deposit of the thirtieth instrument of ratification". If the United Kingdom delegation accepted that sub-amendment, his delegation would be able to support that paragraph.

7. Lady GAITSKELL (United Kingdom) said that her delegation could accept paragraph 1 of the text of article 26 proposed by the United States delegation (A/C.3/L.1372) because it used the same formula as paragraph 1 of her delegation's amendment (A/C.3/L.1352) and gave a clear but not closed list of the categories of States that would be eligible to become parties to the Covenant. Any State not included in the categories mentioned in that paragraph might be invited by the General Assembly to ratify the Covenant, and the question whether or not a particular entity was a State would be decided, not by the Secretary-General, but by the General Assembly.

1/ Official Records of the General Assembly, Twenty-first Session, Supplement No. 9, p. 31.

8. Her delegation had proposed the use of the term "acceptance" because it had thought that that term would give rise to fewer difficulties than "ratification"; since that did not seem to be the case, her delegation would endorse the terms "ratification" and "accession" used in the International Convention on the Elimination of All Forms of Racial Discrimination and in the United States amendment. She would withdraw paragraphs 1 and 2 of her delegation's amendment (A/C.3/L.1352) in favour of the text of article 26 proposed by the United States delegation (A/C.3/L.1372), but would maintain paragraphs 3, 4 and 5 of her amendment. Because of the replacement of the word "acceptance" in paragraphs 3 and 4, she would submit a revised text of the remaining paragraphs. 2/

9. Mrs. IDER (Mongolia) said that, in her statement at the 1407th meeting, she had merely given examples of cases in which participation in a multilateral treaty did not imply that any of the States parties necessarily recognized any other State party, in particular United States participation in the Declaration on the neutrality of Laos, signed at Geneva on 23 July 1962, the Conventions for the Protection of War Victims, signed at Geneva on 12 August 1949 and the Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water, signed at Moscow on 5 August 1963.

10. Mrs. OULD DADDAH (Mauritania) said that in her delegation's view discrimination against any country in matters of human rights was incompatible with the very concept of human rights and that the Third Committee should transcend transient considerations of political expediency and realize the danger of leaving countries outside the international community, which documents like the Covenants were helping to build. For that reason her delegation would support the Ukrainian amendments (A/C.3/L.1359).

11. The sponsors of the amendment in document A/C.3/L.1367, including her delegation, had chosen the number fifty out of a concern for the effectiveness of the Covenant and in order to bring that instrument into force as soon as possible. Her country, for one, expected to ratify the Covenant at an early date and was confident that the fifty ratifications would soon be secured. Her delegation would nevertheless support the majority view in the Third Committee on that point, provided it took account of the number of Members of the United Nations and called for the maximum possible number of ratifications.

12. Mr. STAVROPOULOS (Legal Counsel), replying to the question asked by the Hungarian representative at the previous meeting as to whether any multilateral treaties deposited with the Secretary-General provided for the participation of "all States" or "any State" and, if so, whether the Secretary-General had encountered any difficulties in that regard, said that none of the multilateral treaties concluded under the auspices of the United Nations contained such a provision. A number of League of Nations treaties contained the provision that they would remain open for accession by members of the League of Nations and any non-member States and the Secretary-General had received a number of ratifications and accessions to those treaties since their transfer to the custody of the United Nations. However, all the instruments of ratification or accession had emanated from States Members of the United Nations, and, therefore, no question had arisen in regard to their deposit.

13. The problem of the "all States" formula had been considered by the General Assembly in connexion with the question of extended participation in League of Nations treaties. The Secretary-General, in his statement at the 1250th plenary meeting, 3/ had declared that when he addressed an invitation or when an instrument of accession was deposited with him, he had certain duties to perform: he must ascertain that the invitation was addressed to, or the instrument emanated from, an authority entitled to become a party to the treaty in question and, furthermore, where an instrument of accession was concerned, the instrument must, inter alia, be brought to the attention of all other States concerned and the deposit of the instrument must be recorded in the various treaty publications of the Secretariat, provided it emanated from a proper authority. If he were to invite or to receive an instrument of accession from an area in the world the status of which was not clear, he would be in a position of considerable difficulty unless the Assembly gave him explicit directives on the areas coming within the "any State" formula. Accordingly, if the Secretary-General received an instrument from one of the areas the status of which was unclear, he would refer it to the General Assembly for advice on the action which he should take.

14. The CHAIRMAN proposed that the list of speakers on article 26 should be closed, on the understanding that those delegations which wished to discuss the revised text of the United Kingdom amendment when it was circulated would be permitted to do so.

It was so decided.

15. Mr. BENGTSON (Sweden) said that the "all States" formula used in the Ukrainian amendments (A/C.3/L.1359) would give rise to difficulties of interpretation. As the Legal Counsel had said, it might oblige the Secretary-General to seek guidance from the General Assembly concerning the eligibility of certain entities to become parties to the Covenant. That eventuality should be avoided and the Third Committee should refrain from creating any difficulties for the Secretary-General. His delegation therefore preferred the United States amendment (A/C.3/L.1372), because it clearly indicated which States would be eligible to sign the Covenant and followed the practice established by other United Nations conventions. He saw no reason for departing from previous practice. Should the Third Committee now do so, that would lead to endless political discussions about what constituted a State.

16. The fifty ratifications which, in accordance with the amendment in document A/C.3/L.1367, would be required for the entry into force of the Covenant was in his opinion too high a figure since too long a time would elapse before that figure could be reached. In the interest of all States, the Covenant should be

2/ Subsequently circulated as document A/C.3/L.1375.

3/ Official Records of the General Assembly, Eighteenth Session, Plenary Meetings, vol. II, 1258th meeting, paras. 99-101.

implemented as soon as possible; accordingly, his delegation believed that the Covenant should enter into force upon ratification by twenty States. However, it could also support the figure of twenty-seven called for in the International Convention on the Elimination of All Forms of Racial Discrimination.

17. Mrs. MALECELA (United Republic of Tanzania) said that if the Covenant was to have effect throughout the world, it should lay down guidelines on human rights matters applicable to all peoples. Wishing to ensure universal application of the Covenant, therefore, her delegation had sponsored the amendment in document A/C.3/L.1367, which would increase the minimum number of ratifications necessary for the entry into force of the Covenant from twenty to fifty. That number, although less than half of the membership of the United Nations, was in her view a good point of departure. While the Covenant could enter into force with as few as one or two ratifications, it would then be unlikely to be effective. The important question was the acceptability of the Covenant to the international community; if the Covenant was widely acceptable, there would be no problem of ratifications.

18. It might perhaps sometimes be difficult to decide whether or not a given political entity was a State, but she believed that the time had come for the General Assembly to tackle that question since an important part of the world's population was left outside the protection of the United Nations. Her delegation could not support the United Kingdom amendment (A/C.3/L.1352), because it fell short of the universality called for by the Ukrainian amendments (A/C.3/L.1359).

19. Mr. CAINE (Liberia) said that, if the United Nations was to achieve international co-operation in solving economic, social, cultural and humanitarian problems and in promoting respect for human rights and fundamental freedoms, it must maintain the standards already established, in particular under Chapter II of the Charter, and must not confuse the criteria used by individual States in defining what should be regarded as a State with those employed by the United Nations under its Charter. The question of deciding whether or not an entity was a State qualified to participate in general multilateral treaties concluded under the auspices of the United Nations was a political question which could be answered only by the General Assembly. Any proposal to the contrary would undermine the purposes and the principles of the Charter. Those delegations which now supported proposals which would eventually require the General Assembly to decide which entities were States were themselves neither willing nor able to endure the consequences of such a decision. His delegation was therefore convinced that artificial theories and arguments based on the principle of universality of participation in treaties under the auspices of the United Nations should be abandoned since that idea was as old as it was useless and merely produced confusion. The Committee must face facts: no State could be a normal Member of the United Nations if it made its own rules of conduct, which differed from those laid down by the Charter.

20. His delegation could accept the United Kingdom amendment (A/C.3/L.1352) incorporating paragraphs 1 and 2 of the United States amendment (A/C.3/L.1372). The Ukrainian amendments (A/C.3/L.1359) called upon the Committee to make recommendations which would place permanent obstacles in the way of its future work and was therefore unacceptable to his delegation.

21. Since the Committee's main concern should be the early entry into force of the Covenant, his delegation shared the views expressed by the Chilean delegation at the previous meeting concerning the amendment in document A/C.3/L.1367. The Committee should agree on a number that would bring the Covenant into force as early as possible.

22. Mr. KOITE (Mali), referring to the question of eligibility to participate in the Covenant, said that he could not support the amendments submitted by the United Kingdom (A/C.3/L.1352) and the United States (A/C.3/L.1372) on that point, for reasons which had already been given by other speakers. The Ukrainian amendments (A/C.3/L.1359) would make it possible for all countries which so desired to become parties to the Covenant, a formula which was in keeping with the principle of universality laid down in the Charter. The specious juridical arguments which had been adduced against the Ukrainian position showed that political partisan preoccupations were taking precedence over respect for human rights. The fact that a country was or was not a member of an organization in the United Nations family was irrelevant; if it was capable of respecting the Covenant and willing to do so, it should not be refused the opportunity.

23. On the question of the number of ratifications to be required for the Covenant to enter into force, his delegation had no definite stand, and would co-operate with other delegations in an effort to arrive at an acceptable solution.

24. Mrs. DINCMEN (Turkey) said that however laudable might be the aims of the amendments submitted by the Ukrainian SSR (A/C.3/L.1359), their adoption was likely to create considerable problems. The matter had been more appropriately handled in paragraph 1 of the text proposed by the United Kingdom (A/C.3/L.1352); since that paragraph had now been withdrawn in favour of the text proposed in the United States amendment (A/C.3/L.1372), her delegation would support the latter.

25. With regard to the number of instruments of ratification or accession required for the Covenant to enter into force, her delegation felt that the original number of twenty might be too low; however, to require fifty ratifications, as proposed in document A/C.3/L.1367, might delay the instrument's entry into force. She favoured the figure of thirty proposed in document A/C.3/L.1371, but would support any solution offered by a majority of delegations.

26. In her view the question of reservations should not be mentioned in article 26. She therefore preferred the text proposed in the United States amendment (A/C.3/L.1372) to the United Kingdom wording (A/C.3/L.1352).

27. She shared the view expressed by the United States representative concerning the use of such terms as "ratification" or "accession".

28. Mr. TEKLE (Ethiopia), referring to the question of the number of ratifications to be required for the entry into force of the Covenant, said that the proposal that the number should be fifty (A/C.3/L.1367), had merit in that it would ensure that the parties to the Covenant, on its entry into force, would be more representative of the world community. However, since the question was one on which the Committee appeared divided, he asked whether the sponsors of that proposal would consider reducing the number of ratifications or accessions required to thirty-five.

29. His delegation had always favoured universality, particularly in matters pertaining to human rights. It would therefore vote in favour of the Ukrainian amendments (A/C.3/L.1359).

30. Miss MENESES (Venezuela) said that her delegation had always supported the principle of universality. At the same time, it could not ignore the practice followed by the General Assembly of opening United Nations treaties and conferences to participation by States belonging to the United Nations system and to States invited by the General Assembly. The Secretary-General had stated, moreover, that he was not competent to decide whether an entity was a State or not. In her view the Committee should adopt the formula agreed upon in 1965 for the International Convention on the Elimination of All Forms of Racial Discrimination. Her delegation was unable to support the Ukrainian amendments (A/C.3/L.1359) in view of the legal problems to which it would give rise and to which the Legal Counsel had referred.

31. Her delegation could support the text of article 26 proposed by the United States (A/C.3/L.1372) but felt, with regard to the proposed article 26 bis, that a decision must first be taken on the question of the number of ratifications required for entry into force. The Ethiopian representative's suggestion on that point was a very useful one and she hoped that the sponsors of the amendment in document A/C.3/L.1367 might be able to agree to it.

32. Mrs. DMITRUK (Ukrainian Soviet Socialist Republic) emphasized the importance of the principle of universality with respect to the Covenant. Some delegations appeared to suggest that the adoption of that principle would imply compulsory participation. That was not the object, however. Her delegation simply wished that those States which sincerely desired to accede to the Covenant and to carry out its provisions should have the opportunity of doing so. Whether human rights were or were not respected in various parts of the world could not be a matter of indifference to the Committee. As to the Secretary-General's difficulties in defining statehood, her delegation felt that they were purely artificial.

33. Referring to the Lebanese representative's suggestion at the previous meeting that the Ukrainian delegation was in effect seeking to delay acceptance of the Covenant, she observed that her delegation's only purpose in submitting its amendments was to secure the adoption of an instrument applying to all peoples.

34. Her delegation wished to announce that its amendments to article 26 (A/C.3/L.1359) should be regarded as amendments to the United States amendment (A/C.3/L.1372).

35. Mr. ALLAOUI (Algeria) felt that, since the instrument which the Committee was considering related to the protection of human rights, it should be of universal application. His delegation would therefore support the Ukrainian amendments (A/C.3/L.1359). It could also support the proposal (A/C.3/L.1367) to raise the number of ratifications required from twenty to fifty, but would join in supporting any other agreed number.

36. Mr. NASINOVSKY (Union of Soviet Socialist Republics) emphasized the importance of the Ukrainian amendments (A/C.3/L.1359), which aimed at making the Covenant universal. That aim was justified by the subject matter of the instrument. Human rights were of universal application. The amendments of the United Kingdom (A/C.3/L.1352) and the United States (A/C.3/L.1372) would have the effect of strengthening discrimination in the area of human rights, by preventing some countries from acceding to the Covenant.

37. The technical difficulties mentioned by the Legal Counsel were not as great as they had been portrayed. Moreover, international practice showed that, in a number of cases, States outside the United Nations family of organizations had taken part in important conferences held under United Nations auspices, for instance, the Conference of the Eighteen-Nation Committee on Disarmament. Under the Charter, the United Nations was the depositary of international treaties, including those to which both Members and non-members of the Organization were parties. In that connexion, he drew attention to the fact that copies of the Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water had been sent to States throughout the world. The question, therefore, was not really one of technical difficulties but of principle: whether to open the Covenant to all States, or only to some. Why should States which were willing to accept the provisions of the Covenant be excluded? His delegation would vote in favour of the Ukrainian amendments (A/C.3/L.1359) and against the amendments of the United Kingdom (A/C.3/L.1352) and the United States (A/C.3/L.1372).

38. His delegation had no strong views on the question of the number of ratifications to be required, and would concur in the general decision; it felt that the number should be as high as possible, since that would strengthen the force of the Covenant.

39. Mr. PAOLINI (France), speaking on behalf of the sponsors of the amendment in document A/C.3/L.1367, accepted the figure of thirty-five suggested by the Ethiopian representative for the number of ratifications required for entry into force. The sponsors hoped that the Iranian representative would agree to accept the figure of thirty-five and revise accordingly his oral amendment to the United Kingdom amendment (A/C.3/L.1352).

40. Mr. AMIRMOKRI (Iran) agreed to that suggestion.

41. Mrs. HARRIS (United States of America) observed that, in the text of article 26 bis proposed by her delegation (A/C.3/L.1372), the number of ratifications required had been left blank. Her delega-

tion would be glad to complete the text by inserting the number thirty-five.

42. Mr. A. A. MOHAMMED (Nigeria), speaking on behalf of the sponsors of the amendment in document A/C.3/L.1371, said that they agreed to the figure of thirty-five, although they would have preferred a lower one.

43. Mr. RICHARDSON (Jamaica) said that the debate had brought forth no good reason for raising the number of accessions above the original twenty; his delegation would nevertheless fall in with the views of the majority in the matter.

44. He unfortunately found it necessary to restate his delegation's position on article 26, since it had been misinterpreted. His delegation felt that the United Nations programmes on human rights were outside politics. It wished the Covenant to be effective and to protect the rights of all peoples everywhere, since its object and beneficiary was, precisely, the individual human being. However, the present international effort was being made in the context of the United Nations, and it would be irresponsible formally to adopt provisions which would burden the Secretary-General with the obligation of making political judgements regarding the statehood of particular entities; moreover, the Secretary-General had specifically declined to make such judgements.

45. His delegation thought that the United States amendment (A/C.3/L.1372), which had superseded part of the United Kingdom amendment (A/C.3/L.1352), was entirely satisfactory. The formula proposed was the one best calculated to free human rights documents from political considerations. Delegations which desired to recommend non-member States as signatories to the Covenant should do so in the General Assembly. The matter would then be decided on its merits. He suggested that decisions of that kind should be made by a simple majority vote.

46. Mr. BAHNEV (Bulgaria) said that the Legal Counsel's statement had made it clear that from the standpoint of international law it was perfectly possible to find criteria for determining whether an entity was a State or not. The difficulty was that the Secretariat was afraid to apply the objective criteria that existed and chose instead to give political support to those opposing the "all States" formula. There was, in point of fact, absolutely no danger in providing that any State might accede to the Covenant. Indeed, the "all States" formula had already been used within the United Nations system, and he referred to the Constitution of the World Health Organization (WHO), article 3 of which read: "Membership in the Organization shall be open to all States". If the Committee adopted the formula proposed by the Ukrainian delegation (A/C.3/L.1359), it would not be setting a precedent.

47. Mr. SAKSENA (India) said that his delegation had always supported the principle of universality and time had only strengthened its conviction in that regard. The argument that the "all States" formula would create difficulties had not been convincing, and he welcomed the references made to various legal instruments containing that formula. Only organized peoples living in a particular territory and having a sovereign government would wish to accede to the Covenant, which did not confer privileges but imposed serious obligations. He supported the Ukrainian amendments.

48. Regarding the number of ratifications or accessions necessary for the Covenant to enter into force, it appeared that a consensus had evolved around the figure thirty-five, which he could accept despite his preference for the number twenty-seven adopted in the International Convention on the Elimination of All Forms of Racial Discrimination.

49. Mr. BAROODY (Saudi Arabia) said that in his view the figure thirty-five was too small. Considering the size and constant expansion of the membership of the United Nations, the minimum figure should be fifty. If a small figure were adopted, a limited group of countries, perhaps from Africa and Asia, might ratify the Covenant while others stood aloof; thus the Covenant would be in force but would in no sense be international. He hoped that a reasonable figure might still be found. Regarding the scope of participation, he maintained that humanitarian and juridical issues were basically different from political issues. In political issues, States might with some justification hesitate to invite the participation of Governments they did not recognize, although he would point out that Saudi Arabia had requested the participation of North Korea in peace negotiations even though it had not recognized the North Korean Government. In legal and humanitarian questions, however, it was essential that all States should be involved, regardless of the attitude of other States towards them. His Government, although it did not recognize the Governments of mainland China, Israel or East Germany and had severed relations with West Germany, would nevertheless greatly welcome their participation in the International Covenants on Human Rights. The Covenants, like all juridical and humanitarian instruments, should be of universal scope and application.

50. At the thirteenth session, after considerable debate, the Third Committee had arrived at a formulation for its resolution on World Refugee Year which might be helpful in the present discussion. Operative paragraph 1 of General Assembly resolution 1285 (XIII) tried to solicit assistance from all countries without explicitly calling on all States. However, if some such generally acceptable wording could not be found in the present instance, he would vote in favour of the Ukrainian proposal.

51. Mr. BAZAN (Chile) expressed deep concern about the possible outcome of the discussion on the number of acceptances to be required for the Covenant's entry into force. No compromise could yield the proper solution. The Committee was faced with a clear-cut choice between a figure allowing for the early and effective entry into force of the Covenant and higher figures which would jeopardize all the work invested in the draft over the past fifteen years. His delegation favoured the smallest possible number and would accordingly propose that the figure thirty-five now incorporated in article 26 bis proposed by the United States delegation should be replaced by twenty. That figure did not militate against universality; on the contrary, it would bring the Covenant

into force at an early date and thus induce many States to accede to it. A larger figure would prevent those States which were ready to enter into commitments under the Covenant from doing so and discourage all potential parties. His own country was beginning to feel discouraged even now; it would not wish to commit itself to an instrument if it thought that it might not come into force for many years, if at all. It desired to be a party to a working Covenant, and with other parties set an example for States to emulate. He hoped that it would not be deprived of that opportunity.

52. Mrs. DE BROMLEY (Honduras) said that she would support a participation formula on the lines of the United Kingdom proposal, which broadened the scope of the original draft without going beyond the formula used in the International Convention on the Elimination of All Forms of Racial Discrimination or the one recently adopted by the Sixth Committee in connexion with the international conference of plenipotentiaries on the law of treaties. Regarding the number of acceptances required for the instrument to come into force, she could accept the figure thirty-five since it seemed widely supported and because of the opinion held by many delegations that a number as large as fifty would seriously delay the Covenant's entry into force.

53. Mr. WERSHOF (Canada) said that his delegation had no very strong feelings about the number of ratifications or accessions that should be required before the Covenant came into force, but it questioned the logic of the argument that the number should be large because the Covenant was important. Precisely because it was important and wide acceptance was desired, it would be better to prescribe a small number, perhaps thirty or less. If the Covenant came into force quickly, other States would be encouraged to speed up their internal ratification or accession procedures.

54. On the question of eligibility, the "all States" formula had recently been fully debated in the Sixth Committee under agenda item 84 (Reports of the International Law Commission on the second part of its seventeenth session and on its eighteenth session) and that formula had been decisively rejected at its 918th meeting on 25 October 1966. Although the issue at stake had been the participation in the international conference of plenipotentiaries on the law of treaties, the arguments were the same. The vital fact was that the Secretary-General had stated that he could not accept the responsibility of deciding whether an entity which did not belong to the United Nations system was a State and that if the Assembly adopted an "all States" formula regarding invitations to participate in a conference or regarding the signature of a treaty it would have to give him a list of the additional States to be invited to participate or permitted to sign. In the Sixth Committee the "all States" amendment (A/C.6/L.598) had been rejected by 53 votes to 33, with 19 abstentions, and a formula identical in substance to the United States proposal now before the Third Committee (A/C.3/L.1372) had been adopted by 65 votes to 19, with 16 abstentions. The United States formula, which had been used in the International Covention on the Elimination of All Forms of Racial Discrimination approved by the Third Committee at the previous session, and in other United Nations treaties, was not inconsistent with the idea of universality, for it left open the possibility of any Member of the United Nations proposing to the General Assembly, by resolution, that a specific country should be invited to sign and ratify the Covenant even though that country was not otherwise eligible to do so. He would vote against the "all States" formula, which had never been used in the United Nations treaties, and would urge the Committee to leave the controversial and political question whether certain countries or States should become Members of the United Nations to be decided by the Security Council and the General Assembly in the proper context.

55. The Bulgarian representative had referred to article 3 of the WHO Constitution. He wished to point out, however, that the Constitutions of the specialized agencies contained provisions, similar to that in the United Nations Charter, under which an application for membership had to be approved by the governing body of the agency concerned. In other words, it was not possible for a country simply to declare itself a member of a specialized agency. In that sense the Constitution of WHO was really no different from the United States formula.

56. Mr. A. A. MOHAMMED (Nigeria) said that his delegation had consistently supported the principle of universality in all forms and attached great importance to it in matters of human rights and fundamental freedoms, which by their very nature were universal and should be free from the political bickering that made the "all States" formula so controversial. The exclusion of any State from participation in the International Covenants on Human Rights was fundamentally incompatible with the spirit which had reigned over their preparation. Nevertheless, the procedural problem still existed, and the Legal Counsel had read out the unambiguous statement by the Secretary-General indicating a formidable technical difficulty. Because of that difficulty, and for political reasons as well, no United Nations treaties had been adopted with that formula. Moreover, vast complications would arise in the event of the submission of reports under article 17 of the draft Covenant by countries whose status had not been determined in the United Nations. The General Assembly was the proper body to take action making it possible for an "all States" formula to be adopted in the draft Covenant. He hoped that the Assembly would very soon take the necessary steps.

57. Miss TABBARA (Lebanon), replying to the Ukrainian representative, said that she had not impugned the motives of the Ukrainian delegation at the previous meeting. In fact she had proceeded from the premise that that delegation wanted to bring the Covenant into force as quickly as possible.

58. Mr. BAHNEV (Bulgaria), replying to the Canadian representative, said that the Constitution of WHO made it possible for all States to apply for membership and to become parties to the Constitution. The Constitution contained additional procedures concerning admission to membership. In the case of the

draft Covenant, there was no additional procedure relating to ratification, that being a domestic matter. Accordingly, the WHO Constitution was essentially similar to the Ukrainian proposal, since both provided all States with an opportunity for participation in the first instance.

The meeting rose at 1.30 p.m.

Litho in U.N. 77301—August 1967—2,225