

only just returned with its information, and its report should be ready within two days.

31. The PRESIDENT said that the Council would take up item 4 at the following meeting, at which time

the Secretariat would report on the availability of documents for item 3.

The meeting rose at 12 noon.

1987th meeting

Tuesday, 20 April 1976, at 3.35 p.m.

President: Mr. Siméon AKE (Ivory Coast).

E/SR.1987

AGENDA ITEM 4

Procedures for the implementation of the International Covenant on Economic, Social and Cultural Rights (E/5764)

1. Mr. SCHREIBER (Director, Division of Human Rights) said that the entry into force of the two Covenants on human rights on 3 January 1976 was an historic event and a signal achievement of the United Nations. It was especially significant because the prospects for the adoption of the Covenants had long been in doubt and it had not been until 16 December 1966, 18 years after work on the Covenants had first started, that the two documents had been adopted by the General Assembly, in its resolution 2200 (XXI), by 105 votes to none, with no abstentions. On that historic day, the Secretary-General, U Thant, had paid a tribute to the untiring efforts of distinguished humanitarians and jurists to draw up a legal document expressing the conscience of the world with regard to the legitimate aspirations of all men everywhere. The then President of the General Assembly had hailed the adoption of the Covenants as a major advance towards the new world which the United Nations was committed to building. Nevertheless, there had been even then sceptics who had predicted that the Covenants would never enter into force.

2. The predictions had been proved wrong, and with their entry into force, the Covenants legally bound the States parties to implement one of the principal purposes of the Charter of the United Nations: to promote respect for human rights. Moreover, not only did the Covenants make the Universal Declaration of Human Rights (General Assembly resolution 217 A (III)) binding upon States parties, they broadened the scope of the provisions of the Declaration in certain respects. The Covenant under discussion would serve the Council as a powerful instrument for initiating further action to protect economic, social, and cultural rights without discrimination, within the framework of its primary objectives, namely, economic development, social progress and the establishment of a new international economic order. It would also enable the Council to monitor the progress of States parties in implementing those rights, to identify both advances and obstacles, and to take the international measures which would foster their implementation on the national level. In carrying out that decisive task, for which it bore the primary responsibility, the Council could be assisted by the Commission on Human Rights, the specialized agencies and the technical assistance organs of the United Nations system.

3. The system of implementation described in part IV of the International Covenant on Economic, Social and Cultural Rights (E/5764, annex I) was a complex one, and in working out a proposed programme (E/5764, chaps. II and III) for adoption by the Council at the current session in order to set the system in motion, as full account as possible had been taken of past decisions and of new ideas which were emerging concerning the organization of the Council's work and its future tasks. The Secretary-General's note (E/5764, para. 27) described the consultations held with States parties and the specialized agencies, and offered suggestions for action by the Council. In addition to consultations with the ILO, UNESCO, WHO and FAO, talks had been held with the World Bank, WIPO, the Office of the United Nations High Commissioner for Refugees and UNICEF, all of which had expressed interest in helping to implement the Covenant. In order to ensure that the reports from States parties would be of high quality and sufficiently detailed, they would have to be presented in stages over a six-year period, so as to allow States parties time for adequate preparation and to enable the Council and the bodies which would assist it to discuss them thoroughly. That was the consensus which had emerged from the consultations.

4. The programme proposed by the Secretary-General (E/5764, para. 24) was acceptable to the specialized agencies, with one exception: UNESCO had requested that the report on the rights enumerated in article 15 of the Covenant should be included in the programme for the sixth year rather than that for the third. The agencies had said that they were prepared to comment on the reports of States parties transmitted to them by the Secretary-General and to provide the Council with the reports called for under article 18 of the Covenant.

5. In connexion with the financial implications of the system of implementation of the International Covenant on Economic, Social and Cultural Rights, the Preparatory Committee of ACC had stressed that participation in that process would place a substantial additional burden on the specialized agencies which could not be absorbed from available resources. That Committee's view was that the problem should be brought into the open and if, as was likely, the United Nations was not prepared to finance the assistance provided by the agencies and it was agreed that the assistance constituted a contribution within the framework of their constitutional responsibilities to the common effort to promote human rights, that fact should be clearly recognized by all the intergovernmental bodies concerned. The 37 States parties to the Covenant had also been consulted (E/5764, para. 9). Moreover, since the issue of document E/5764, the Governments of the Federal

Republic of Germany and the Democratic Republic of Madagascar had agreed to the suggested programme and the Government of the Union of Soviet Socialist Republics had replied to the inquiry, proposing certain procedures which differed somewhat from the six-year programme. He would welcome clarification of those procedures from the Soviet representative in the Council.

6. The implementation of the right to self-determination (article 1 of the Covenant) could be dealt with by the Human Rights Committee which was to operate within the context of the International Covenant on Civil and Political Rights, which contained an identical provision. Alternatively, reports on the implementation of that article or part of it might be taken up in the second year of the proposed reporting cycle (E/5764, para. 24).

7. In suggesting the time-table for the submission of reports and comments under articles 16 and 18 of the Covenant, the Secretary-General had been primarily concerned not to lose momentum in applying the implementation measures and to ensure that the system of implementation operated smoothly. The Council should note that articles 16 and 18 implied a number of stages, which made up the cycle for considering reports from Governments and specialized agencies. First, a request to Governments and agencies to submit their reports by a certain date; second, the preparation and presentation of the reports; third, the comments of the competent specialized agencies on the reports of Governments, which, while not specifically called for in those articles, would be very useful in view of the specialized knowledge and experience of the agencies; fourth, consideration of the reports from Governments and specialized agencies by the Commission on Human Rights, on which the Council was expected to rely heavily, as suggested in article 19 of the Covenant; fifth, submission to the States parties and the specialized agencies for their comments of any recommendations made by the Commission to the Council, as provided in article 20; and lastly, consideration by the Council of the reports of the Commission and comments of the States parties and the specialized agencies, which might, in turn, lead to reports by the Council containing general recommendations for action by the General Assembly. Consequently, as pointed out in the Secretary-General's note (E/5764, chap. III), the reports received in 1976 would not be before the Council until April-May 1979. Since the interval was unduly long in a rapidly changing world where information was soon outdated, it had been suggested (E/5764, para. 30) that the process could be accelerated by appealing to the specialized agencies to speed up their task, which was largely technical, by having the Council hold a special series of meetings to consider the reports of the Commission on Human Rights at the end of June or in August and/or by having the Commission hold a short special session towards the end of May. The action to be taken by the Council at its current session was described in paragraph 27 of the Secretary-General's note.

8. On the occasion of the thirty-fifth ratification of the International Covenant on Economic, Social and Cultural Rights, which had brought the instrument into force, the Secretary-General had emphasized that Member States had been given an important means of implementing the principle set out in the United Nations Charter, of respect for human rights without discrimination, and had urged States which had not yet done

so to sign and ratify the Covenants. The Council had the dual task of ensuring the effective implementation of the Covenant by existing States parties and of promoting signature and ratification by more and more States, thus rendering the Covenants truly universal legal documents.

9. Mr. VON KYAW (Federal Republic of Germany) asked whether, under part IV of the International Covenant on Economic, Social and Cultural Rights, it was the Council itself or the Commission on Human Rights which should consider the reports of States parties. Article 16 clearly assigned the responsibility to the Council, but article 19 authorized the Council to transmit both reports from Governments and those from the specialized agencies to the Commission. Irrespective of which organ discharged that responsibility, it was imperative to establish a subgroup of experts, primarily from countries which had ratified the Covenant, capable of dealing with the examination of the reports. On another matter, he had some doubts whether the role proposed for the specialized agencies was in keeping with the responsibilities assigned to them under articles 16 (b) and 18 of the Covenant. He had concluded from those articles that either the Council or the Commission on Human Rights, but not the specialized agencies, should be asked to examine and comment on the reports of States parties. The specialized agencies were merely to report on the progress made in the observance of the provisions of the Covenant falling within their competence.

10. Referring to paragraph 30 of the Secretary-General's note (E/5764), he emphasized that his delegation's primary concern was that there might not be enough time to establish the necessary institutional framework for a proper study of the reports. Since both the Council and the Commission on Human Rights, and particularly the latter, already found it difficult to cope with their heavy agenda, it was essential to establish the competent subgroup he had suggested.

11. Mr. SMID (Czechoslovakia) said that the entry into force of the Covenants was gratifying in that it signified agreement among States having different social systems on the regulation of all important aspects of the legal position of individuals in society; the event was a major contribution to international peace and security.

12. His delegation accepted the six-year programme suggested in the Secretary-General's note and welcomed the fact that the reports on the right to work and right to the enjoyment of just and favourable conditions of work would fall due in the first year of the cycle. Those rights were specifically safeguarded in the Czechoslovak Constitution and national legislation, which, moreover, established the prerequisites for their realization. Czechoslovakia had deposited its instrument of ratification of the International Covenant on Economic, Social and Cultural Rights in December 1975.

13. Mr. S. SMIRNOV (Union of Soviet Socialist Republics) emphasized the historic role of the International Covenant on Economic, Social and Cultural Rights, which was the first comprehensive international human rights instrument to be legally binding on States parties.

14. With regard to procedures for the implementation of the Covenant, his delegation agreed in principle with the six-year reporting programme proposed in document E/5764, but it considered that reports should be

submitted biennially rather than annually. For example, reports might be submitted on social issues (articles 2, 6 and 7) during the first two years; on family issues (articles 10, 11 and 12) in the second two-year period; and on cultural issues (articles 13, 14 and 15) in the third two-year period. Such a programme would facilitate the implementation of the Covenant without overburdening States parties, the Council or other bodies with the preparation of reports. The proposed reporting programme could replace the existing system under which Member States submitted periodic reports to United Nations organs, including the Commission on Human Rights, on economic, social and cultural rights. A similar procedure might be adopted in respect of the International Covenant on Civil and Political Rights.

15. With regard to the proposal contained in paragraph 27 (vi) of document E/5764, his delegation considered that since the Commission on Human Rights was already overburdened, the submission of reports to that body would further delay its work and would not be an effective method of promoting the implementation of the Covenant. The best arrangement would be to submit reports to the Economic and Social Council in accordance with the provisions of articles 16 and 19 and other articles of the Covenant.

16. He shared the view expressed by the representative of the Federal Republic of Germany that the Covenant did not contain specific provisions concerning the role of the specialized agencies, and he emphasized the importance of adhering to the spirit and letter of the Covenant in that respect.

17. Mr. SCHREIBER (Director, Division of Human Rights) agreed that article 16 of the Covenant clearly laid down that the responsibility for considering reports lay with the Economic and Social Council. That was not only a matter of jurisdiction but also a responsibility to ensure that the reports received would be examined in depth and appropriate measures would be recommended to ensure the realization of the objectives of the Covenant. Since the consideration of reports was essentially a technical task, it might be appropriate to establish a group of experts to study them. As suggested, that might be done at the level of the Council or that of the Commission.

18. The Commission on Human Rights had declared its readiness to assist the Council in that regard and had examined various possibilities. One of them was that, in view of its heavy workload, it might be advisable to convene an additional short session of the Commission for the purpose of assisting the Council under article 16 of the Covenant. The members of the Council would have to decide on the course of action to be followed.

19. With regard to the second point raised by the representative of the Federal Republic of Germany, he agreed that article 16 did not specifically define the role of the specialized agencies with regard to reports submitted by States parties to the Covenant which they were entitled to receive. However, it might be recalled that the specialized agencies had participated actively in the drafting of the Covenant, and their active participation in its implementation was always welcomed. Their study of reports submitted by Governments would provide the Council with the benefit of their expertise in their own fields.

20. Mr. BROAD (United Kingdom) said that article 20 provided clarification of the role of the specialized agencies. It was stated therein that they should submit comments to the Economic and Social Council after the reports had been considered by the Commission on Human Rights. Consequently, any suggestion that they should study the reports and submit comments prior to the deliberations in the Commission on Human Rights would give those agencies a more important role than was envisaged in the Covenant.

Organization of work

21. Mr. BROAD (United Kingdom), supported by Miss CAO-PINNA (Italy), proposed that an open-ended working group should be established with a view to preparing a draft resolution concerning arrangements for the implementation of the Covenant.

22. The PRESIDENT urged delegations to arrange consultations with a view to submitting a draft resolution on the item under consideration at the earliest possible date.

The meeting rose at 4.45 p.m.

1988th meeting

Wednesday, 21 April 1976, at 3.35 p.m.

President: Mr. Siméon AKE (Ivory Coast).

E/SR.1988

AGENDA ITEM 4

Procedures for the implementation of the International Covenant on Economic, Social and Cultural Rights (*continued*) (E/5764)

1. The PRESIDENT said that a number of delegations had urged that an informal exchange of views should be arranged on the item under discussion. If the Council agreed, he would adjourn the meeting after the statements by the speakers on his list so that the informal discussions could take place immediately.

It was so decided.

2. Mr. BARCELO (Mexico) described his country's long-standing interest in the International Covenant on Economic, Social and Cultural Rights and pointed out that the rights included in the new Covenant had been recognized in the Mexican Constitution for 50 years. The dramatic changes that had taken place within the international community in the previous decade had led his Government to make a careful review of possible discrepancies between the prevailing international situation and the Covenant. In the light of its findings on the subject, his Government might suggest amendments or additions with a view to making the Covenant more