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DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Report of the Third Committee

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INTRODUCTION

1. At its 1415th plenary meeting, on 24 September 1966, the General Assembly allocated to the Third Committee the item entitled "Draft International Covenants on Human Rights". The Third Committee discussed this item from its 1395th to its 1441st meetings, held from 14 October to 1 December 1966 inclusive, and at its 1446th, 1451st and 1452nd to 1456th meetings, held on 2, 7, 8 and 12 December 1966.

2. The draft International Covenants on Human Rights, prepared by the Commission on Human Rights and transmitted to the General Assembly by the Economic and Social Council, have been on the agenda of the General Assembly since its ninth session in 1954.

3. It may be recalled that at its second session in December 1947 the Commission on Human Rights decided that the International Bill of Human Rights should consist of a "declaration", a "covenant" and "measures of implementation".^{1/} When the General Assembly adopted and proclaimed the Universal Declaration of Human Rights on 10 December 1948, it requested by resolution 217 F (III) that continued priority be given to the preparation of a draft covenant on human rights and draft measures of implementation. Thereafter the Commission devoted six sessions (fifth to tenth) from 1949 to 1954 to the preparation of the covenants.^{2/} During this time it received observations and comments from Governments of Member States, specialized agencies and non-governmental organizations, proposals and suggestions from the Commission on the Status of Women and the Sub-Commission on Freedom of Information and of the Press and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, as well as directives and instructions from the General Assembly and the Economic and Social Council.

1/ Official Records of the Economic and Social Council, Sixth Session, Supplement No. 1 (E/600), chapter II.

2/ Ibid., Ninth Session, Supplement No. 10 (E/1371); Eleventh Session, Supplement No. 5 (E/1681); Thirteenth Session, Supplement No. 9 (E/1992); Fourteenth Session, Supplement No. 4 (E/2256); Sixteenth Session, Supplement No. 8 (E/2447); Eighteenth Session, Supplement No. 7 (E/2573).

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4. At its ninth session (1954) the General Assembly had before it the text of two draft Covenants, one on economic, social and cultural rights, and the other on civil and political rights together with certain proposals and amendments and documents.^{3/} At that session the Third Committee of the Assembly heard a general discussion on the texts and proposals and amendments thereto.^{4/} The consideration of the draft Covenants by the Third Committee at subsequent sessions may be summarized as follows:

(a) At the tenth session (1955) the Third Committee considered and adopted the preamble and article 1 of both draft Covenants.^{5/}

(b) At the eleventh session (1956) the Third Committee considered and adopted articles 6 to 13 of the draft Covenant on Economic, Social and Cultural Rights.^{6/}

(c) At the twelfth session (1957) the Third Committee considered and adopted articles 14 to 16 of the draft Covenant on Economic, Social and Cultural Rights and article 6 of the draft Covenant on Civil and Political Rights.^{7/}

(d) At the thirteenth session (1958) the Third Committee considered and adopted articles 7 to 11 of the draft Covenant on Civil and Political Rights.^{8/}

(e) At the fourteenth session (1959) the Third Committee considered and adopted articles 12 to 14 of the draft Covenant on Civil and Political Rights.^{9/}

^{3/} Ibid., Eighteenth Session, Supplement No. 7 (E/2573), chapter III, and annexes I to III.

^{4/} Official Records of the General Assembly, Ninth Session, Annexes, agenda item 58, document A/2808 and Corr.1.

^{5/} Ibid., Tenth Session, Annexes, agenda item 28, part I, document A/3077, and in particular paras. 17-77 thereof.

^{6/} Ibid., Eleventh Session, Annexes, agenda item 31, document A/3525, and in particular paras. 13 to 157 thereof.

^{7/} Ibid., Twelfth Session, Annexes, agenda item 33, document A/3764 and Add.1, and in particular paras. 5 to 121 thereof.

^{8/} Ibid., Thirteenth Session, Annexes, agenda item 32, document A/4045 and in particular paras. 3 to 91 thereof.

^{9/} Ibid., Fourteenth Session, Annexes, agenda item 34, document A/4299 and Corr.1, and in particular paras. 3 to 64 thereof.

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(f) At the fifteenth session (1961) the Third Committee considered and adopted articles 15 to 18 of the draft Covenant on Civil and Political Rights.^{10/}

(g) At the sixteenth session (1961) the Third Committee considered and adopted articles 19 to 25 of the draft Covenant on Civil and Political Rights.^{11/}

(h) At the seventeenth session (1962) the Third Committee considered certain additional articles proposed for inclusion in the draft Covenant on Civil and Political Rights, and it considered and adopted articles 2 to 5 of the draft Covenant on Economic, Social and Cultural Rights as well as articles 3 and 5 of the draft Covenant on Civil and Political Rights.^{12/}

(i) At the eighteenth session (1963) the Third Committee considered and adopted articles 2 and 4 and an additional article to follow article 22 of the draft Covenant on Civil and Political Rights, and an additional paragraph for the combined articles 11 and 12 of the draft Covenant on Economic, Social and Political Rights.^{13/}

(j) At the twentieth session (1965) the Third Committee, owing to its heavy agenda, was unable to consider the draft Covenants.

5. At the twenty-first session of the General Assembly, the Third Committee had before it the provisions of the text proposed by the Commission on Human Rights which still required consideration: the articles on measures of implementation

^{10/} Ibid., Fifteenth Session, Annexes, agenda item 34, document A/4625, and in particular paras. 4 to 58 thereof.

^{11/} Ibid., Sixteenth Session, Annexes, agenda item 35, document A/5000, and in particular paras. 5 to 126 thereof.

^{12/} Ibid., Seventeenth Session, Annexes, agenda item 43, document A/5365, and in particular paras. 5 to 98 thereof.

^{13/} Ibid., Eighteenth Session, Annexes, agenda item 48, document A/5655, and in particular paras. 6 to 108 thereof.

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(part IV, articles 17-25 of the draft Covenant on Economic, Social and Cultural Rights; part IV, articles 27-48, and part V, articles 49 and 50, of the draft Covenant on Civil and Political Rights) and the final clauses, which were identical in both draft Covenants (part V, articles 26-29 of the draft Covenant on Economic, Social and Cultural Rights; part VI, articles 51-54 of the draft Covenant on Civil and Political Rights).^{14/}

6. In addition, the Third Committee had before it: the texts of proposals and amendments relating to reservations and the final clauses,^{15/} and the proposal for the establishment of an office of the United Nations High Commissioner (Attorney-General) for Human Rights,^{16/} transmitted by the Commission on Human Rights; observations made by Governments^{17/} and the specialized agencies^{18/} on the texts of the draft Covenants, in accordance with resolution 833 (IX) of the General Assembly; a working paper by the Secretary-General^{19/} containing the proposals and amendments submitted by Governments in their above-mentioned observations; an annotation of the text of the draft Covenants, prepared by the Secretary-General;^{20/} an explanatory paper by the Secretary-General on measures of implementation, and Governments' comments thereon;^{21/} as well as further observations submitted by Governments in accordance with resolution 1960 (XVIII) of the General Assembly.^{22/}

^{14/} Official Records of the Economic and Social Council, Eighteenth Session, Supplement No. 7 (E/2573), annex I. The texts of these provisions were reproduced in the Official Records of the General Assembly, Twenty-first Session, Annexes, agenda item 62 (A/6342), annex II.

^{15/} Official Records of the Economic and Social Council, Eighteenth Session, Supplement No. 7 (E/2573), annex II.

^{16/} Ibid., annex III.

^{17/} Official Records of the General Assembly, Tenth Session, Annexes, agenda item 28, part I, documents E/2910 and Add.1-6.

^{18/} Ibid., documents E/2907 and Add.1 and 2.

^{19/} Ibid., document A/C.3/L.460.

^{20/} Ibid., part II, document A/2929.

^{21/} Ibid., Eighteenth Session, Annexes, agenda item 48, documents A/5411 and Add.1 and 2.

^{22/} Ibid., Twentieth Session, Annexes, agenda item 65, documents A/5702 and Add.1.

7. At the commencement of the discussion in the Committee, there was an exchange of views concerning the desirability and advisability of including the same measures of implementation for both draft Covenants. Although it was fully recognized that all human rights were equally important and closely inter-related, some representatives saw no difference between the two categories of rights, as regards the nature and the methods appropriate at the national level for securing their observance, which would justify the adoption of distinct systems of international implementation. Other representatives drew attention to article 2 of each draft Covenant and maintained that economic, social and cultural rights could only be achieved progressively depending particularly upon available resources, while the observance of civil and political rights could and should be secured forthwith. It was thought that if a single system of implementation were adopted, it might not ensure the effective implementation of civil and political rights. Some of these views were later elaborated upon and are set out below in the introductory part of the report concerning the draft Covenant on Civil and Political Rights. After this preliminary exchange of views the Committee examined the various articles, proposals and amendments thereto.

8. At the present session the Third Committee completed the drafting of the two Covenants by adopting articles relating to the measures of implementation and final clauses of the draft Covenant on Economic, Social and Cultural Rights and the draft Covenant on Civil and Political Rights, as well as by adopting provisions for an optional protocol relating to the Covenant on Civil and Political Rights. Further it adopted draft resolutions for action by the General Assembly.

9. The paragraphs that follow set out the text of proposals and amendments, the voting thereon, and the texts adopted, with a brief indication of the main issues discussed in the Committee at the present session. No attempt has been made to fully summarize the opinions expressed by the various members of the Committee and attention is drawn to the summary records of the discussions where these may be found (A/C.3/SR.1395-1441, 1446, 1451 and 1452-1456). For consideration of the draft Covenants at previous sessions of the General Assembly, reference should be made to the proceedings of those sessions as indicated in paragraph 4 above and to the summary records of the Third Committee relating thereto.

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MEASURES OF IMPLEMENTATION (PART IV) OF THE DRAFT COVENANT ON
ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Article 17

10. The text of article 17 of the draft Covenant on Economic, Social and Cultural Rights proposed by the Commission on Human Rights (A/6342, annex II A) read as follows:

"1. The States Parties to this Covenant undertake to submit in conformity with this part of the Covenant reports concerning the progress made in achieving the observance of the rights recognized herein.

"2. (a) All reports shall be submitted to the Secretary-General of the United Nations for the Economic and Social Council;

(b) Any State Party which is also a member of a specialized agency shall at the same time transmit, in respect of matters falling within the purview of that agency, a copy of its report, or relevant extracts therefrom, as appropriate, to that agency."

11. The Committee considered this article at its 1397th to 1401st meetings.

Amendments

12. Amendments were submitted by India, Iran, Nigeria, Pakistan, the United Arab Republic and Upper Volta (A/C.3/L.1354); subsequently, Afghanistan, Congo (Brazzaville), Libya, Saudi Arabia and Syria became co-sponsors of these amendments. Amendments were also submitted by Italy (A/C.3/L.1358, paras. 1 and 2), the United States of America (A/C.3/L.1360, paras. 1 and 2) and Greece (A/C.3/L.1361).

Proposals for the inclusion of two additional articles before article 17

13. The representative of the United States of America proposed (A/C.3/L.1360, para. 1) to insert the following additional articles before article 17:

Article

"1. There shall be established a Committee on Economic, Social and Cultural Rights (hereinafter referred to as 'the Committee'), consisting of ten experts of high moral standing, acknowledged impartiality, and recognized competence in the field of economic, social and cultural rights, elected by the States Parties from among their nationals. They shall be elected and

serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization. No two of the members of the Committee shall be nationals of the same State.

"2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties. Each State Party may nominate no more than two persons from among its own nationals.

"3. The initial election shall be held six months after the date of the entry into force of this Covenant. At least three months before the date of each election the Secretary-General of the United Nations shall address a written communication to the States Parties inviting them to submit their nominations within a fixed time. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

"4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at the Headquarters of the United Nations. At that meeting, for which two-thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the States Parties.

"5. (a) The members of the Committee shall be elected for a term of four years and they shall be eligible for re-election. However, of the members elected at the first election, the terms of five members shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the Chairman of the Committee.

(b) In the case of a casual vacancy, the Committee itself shall fill the vacancy, having due regard to the provisions contained in paragraph 1 of this article.

"6. The States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article

"1. The Committee shall adopt its own rules of procedure.

"2. The Committee shall elect its own officers for a term of two years.

"3. The Secretariat of the Committee shall be provided by the Secretary-General of the United Nations.

"4. The meetings of the Committee shall normally be held at the Headquarters of the United Nations."

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14. These proposals should be read in conjunction with the amendment to paragraph 2 (a) of article 17 and other proposals made by the United States of America (see paragraphs 20 and 21 below). The Secretary-General, in document A/C.3/L.1365, submitted a statement of the financial implications of these proposals. At the 1401st meeting the representative of the United States withdrew all these amendments.

Amendments to paragraph 1

15. The amendment of Italy (A/C.3/L.1358, para. 1 (a)) was to replace the word "concerning" between the words "reports" and "the progress made", by the phrase: "on the legislative, administrative and other measures which they have adopted, and...". At the 1401st meeting, this amendment was orally revised to replace the word "concerning" by the words "on the measures which they have adopted, and...", so that the relevant part of paragraph 1 of article 17 would read: "... reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized therein."

16. The representative of Greece proposed (A/C.3/L.1361) to insert the word "annually" between the words "to submit" and the words "in conformity". This amendment was withdrawn at the 1401st meeting.

Amendments to paragraph 2 (a)

17. The eleven-Power amendment (A/C.3/L.1354) was to replace the words "for the Economic and Social Council" by the words "who shall transmit copies to the Economic and Social Council for consideration in accordance with the provision of this Covenant".

18. The representative of Italy submitted an amendment (A/C.3/L.1358, para. 1) to add the following sentence at the end of paragraph 2 (a):

"The Council shall carry out the functions assigned to it under this Covenant on the basis of the proposals of an ad hoc Committee of Experts."

This amendment, which should be read in conjunction with the proposal by Italy to insert a new article after article 17 (see paragraph 24 below) was withdrawn at the 1401st meeting.

19. A statement by the Secretary-General of the financial implications of these amendments by Italy (see paragraphs 18 above and 24 below) was circulated in document A/C.3/L.1364.

20. The amendment of the United States of America (A/C.3/L.1360, para. 2) sought to replace the words "Economic and Social Council" by the word "Committee". This amendment should be read in conjunction with the proposal by the United States to insert two additional articles before article 17 (see paragraph 13 above).

21. The United States submitted other proposals, connected with the amendment to article 17, paragraph 2 (a), which were as follows:

"In the text of article 18, paragraph 1:

- (a) First line: delete the word 'their'
- (b) Second line: replace 'Economic and Social Council' by 'Committee'
- (c) Third line: insert the phrase 'the Economic and Social Council' after the phrase 'States Parties to this Covenant'
- (d) End of paragraph: add the following sentence: 'the Committee may request further information from States Parties'.

"In present article 18, add a new paragraph reading as follows:

'4. The Committee shall report annually to the States Parties on its activities and may make suggestions and recommendations based on its examination of the reports and information received from States Parties.'

"In present article 19, first sentence, insert the phrase: 'at the request of the Committee', between the words 'may' and 'make' and replace the word 'it' by 'the Committee'.

"In present article 20:

- (a) Insert a new paragraph 1 reading as follows:
 - '1. The Committee shall transmit annual reports to the Economic and Social Council.'
- (b) Number the present paragraph as paragraph 2.
- (c) In the present paragraph (to be numbered as 2):
 - (i) Insert the word 'annual' before 'reports'
 - (ii) Delete the phrase 'concerning human rights' before the words 'submitted by States'
 - (iii) Replace the word 'States' by 'the Committee'

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- (iv) Delete the phrase 'and those concerning human rights submitted by the specialized agencies'

"Replace present article 22 by the following:

'The Economic and Social Council may submit from time to time to the General Assembly, with its own reports, reports summarizing the transmission from the Committee and the studies and general recommendations of the Commission on Human Rights under article 20, and any comments submitted under article 21.'

All these United States amendments were withdrawn at the 1401st meeting.

Amendments to paragraph 2 (b)

22. The eleven-Power amendment (A/C.3/L.1354) was to replace paragraph 2 (b) by the following:

"The Secretary-General shall also transmit to the specialized agencies reports, or any relevant parts therefrom, from States Parties which are also members of these specialized agencies in so far as these reports, or parts thereof, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments."

23. At the 1401st meeting, this amendment was orally revised to insert the words "copies of the" between the words "to the specialized agencies" and "reports, or any relevant part therefrom".

Proposal to insert an additional article after article 17

24. The representative of Italy (A/C.3/L.1358, para. 2) proposed to insert the following new article after article 17:

"The Committee referred to in article 17, paragraph 2 (a), shall be composed of eighteen experts, known for their high moral standing and impartiality, who shall be elected by the Economic and Social Council from a list of candidates submitted by the States Parties to this Covenant. Each Party shall have the right to nominate one candidate. The first election to the Committee shall take place six months after the date of entry into force of the Covenant; nominations shall be communicated to the Secretary-General of the United Nations three months in advance. Further elections shall take place every four years. The expenses of the Committee shall be borne by the States Parties to this Covenant."

This proposal, which should be read in conjunction with the amendment by Italy to paragraph 2 (a) of article 17 (see paragraph 18 above) was withdrawn at the 1401st meeting.

Issues discussed

25. There was general agreement in the Committee on the broad system of implementation through a reporting procedure as outlined in the draft articles submitted by the Commission on Human Rights. The main issue discussed related to whether the reports should be submitted to and considered by existing United Nations organs or by a Committee of Experts to be elected by States Parties to the Covenant. The discussion on this issue is summarized in paragraphs 28-34 below.

Paragraph 1

26. Several members of the Committee considered it useful to spell out the obligation of the States Parties to report on the "measures adopted" as well as on the progress accomplished. According to some representatives, however, this amendment by Italy, in its original form, (see paragraph 15 above) seemed to place on "legislative and administrative measures" an emphasis which was not always correct as regards the promotion of economic, social and cultural rights. Under such a provision, the States Parties might sometimes include in their reports little more than texts of laws and regulations. It was generally felt that the revised amendment (see paragraph 15 above) met those objections, as it did not single out any particular types of measures.

27. With a view to defining the legal obligations of the States Parties with the greatest possible precision, the representative of Greece proposed (A/C.3/L.1361, see paragraph 16 above) that reports should be submitted "annually" by the States Parties. Most representatives, however, thought that such a text would prejudice the outcome of the necessary consultations between the Economic and Social Council, the States Parties and the specialized agencies, which were contemplated in article 18 of the Commission's draft. Some members of the Committee further said that developments to be reported on could not be expected to occur every year.

Paragraph 2 (a)

28. Under the Commission's draft, the task of considering the reports and taking appropriate action thereon was entrusted to the Economic and Social Council, assisted by other United Nations bodies, and acting in co-operation with the

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specialized agencies. Certain members of the Committee objected to that scheme as possibly leading to a situation where States not Parties to the Covenant but members of the Economic and Social Council would assess the extent to which the States Parties performed their obligations. They saw no justification for the privileged position which would thus be enjoyed by the former group of States. Furthermore, in the opinion of those representatives, the Council, often lacking the necessary technical knowledge and overburdened with many tasks, would find it difficult to carry out a thorough examination of the reports. In contrast, excellent substantive work of a similar kind had been accomplished by various experts' bodies in the United Nations and the specialized agencies. In accordance with those views, the representatives of Italy (see paragraphs 18 and 24 above) and the United States of America (see paragraphs 13, 20 and 21 above) proposed that a Committee of Experts, composed of persons nominated by the States Parties, should play an appropriate role in the reporting procedure. These amendments were based, in varying degrees, on the implementation clause of the Convention on the Elimination of All Forms of Racial Discrimination.

29. The representatives who favoured the establishment of an Experts' Committee generally felt that, while that body would be best suited to carry out a thorough consideration of the reports, the task of making recommendations "on the basis" of the Committee's proposal should be left to the Council. The amendments of Italy (see paragraphs 18 and 24 above) were regarded as giving adequate expression to those views.

30. Most representatives, however, were opposed to the establishment of an Experts' Committee to deal with the reports at any stage of the procedure, and they favoured the system embodied in the Commission's draft. Some members objected, as a matter of principle, to the creation of any such body by the United Nations. In their view, it was highly questionable whether such action was in conformity with the Charter of the United Nations. Several representatives, speaking only on the proposals of Italy and the United States of America, thought that the restrictions placed by these amendments on the competence of the Council to deal with economic, social and cultural rights could be considered as not being in consonance with article 62 and other provisions of the Charter. Those members felt that the Commission's draft rightly expressed confidence in the Council's ability to ensure the implementation of the rights recognized in the Covenant. No doubt the Council would, within its discretion, devise effective procedures for the consideration of the reports, including perhaps, in certain fields, the creation of experts' bodies of its own.

31. These representatives hoped that the Government as adopted by the General Assembly would command the widest possible acceptance, so that all or most of the members of the Economic and Social Council would be parties to the Covenant. Even if this were not the case, however, no serious difficulties would arise, since there was no conflict between the obligations of Member States under Articles 55 and 56 of the Charter and those set forth in the Covenant.

32. It was felt that the Convention on the Elimination of All Forms of Racial Discrimination was not a valid precedent for drafting part IV of the Covenant, since the subject-matters of the two instruments were very different. Furthermore, while the functions assigned to an Experts' Committee under that Convention were not already carried out by any other organ, existing bodies in the United Nations and the specialized agencies were fully competent in the broad field of economic, social and cultural rights. In the view of these representatives, the operations of the proposed Experts' Committee would needlessly complicate the reporting procedure, at a cost which would be heavy for the States Parties, especially the developing countries.

33. Doubts were expressed as regards the impartiality of the members of the proposed Committee and of that body as a whole. It was stressed that the faith of many peoples in the impartiality of experts at the international level had been deeply shaken by the recent decision of the International Court of Justice on the question of South West Africa. The view was also expressed that few members of the proposed body would probably come from the developing countries, since it would be difficult for them to find among their nationals persons of recognized competence in all or several of the technical fields covered by the Covenant. It was also pointed out that, contrary to the Convention on the Elimination of All Forms of Racial Discrimination, none of the proposals included a requirement concerning the representation of different legal systems, and the amendments by Italy (see paragraph 24 above) did not provide for equitable geographic distribution in the Experts' Committee.

34. The majority of representatives favoured the Commission's text with the drafting amendments submitted by the eleven Powers (see paragraph 17 above), which were commended as giving greater precision to the text.

Paragraph 2 (b)

35. As was proposed in the eleven-Power amendment (see paragraph 22 above), most representatives felt that copies of the relevant reports should be transmitted to the specialized agencies by the Secretary-General rather than by the States Parties concerned.

Adoption of article 17

36. At its 1401st meeting the Committee voted on the text proposed by the Commission on Human Rights and on the amendments thereto as follows:

(a) Paragraph 1. The amendment by Italy as orally revised (see paragraph 15 above), was adopted by 93 votes to none, with 1 abstention. Paragraph 1 as a whole, as amended, was adopted by 95 votes to none, with 1 abstention.

(b) Paragraph 2 (a). The eleven-Power amendment (see paragraph 17 above) was adopted by 93 votes to none, with 1 abstention. Paragraph 2 (a) as a whole, as amended, was adopted by 93 votes to none, with 1 abstention.

(c) Paragraph 2 (b). The text proposed for paragraph 2 (b) in the eleven-Power amendment as orally revised (see paragraphs 22 and 23 above), was adopted by 93 votes to none, with 1 abstention.

(d) Article 17 as a whole, as amended, was adopted by 93 votes to none, with 1 abstention. The text of Article 17, as adopted by the Third Committee, reads as follows:

"1. The States Parties to this Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

"2. (a) All reports shall be submitted to the Secretary-General of the United Nations who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of this Covenant.

(b) The Secretary-General shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties which are also members of these specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments."

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Article 18

37. The text of article 18 of the draft Covenant on Economic, Social and Cultural Rights submitted by the Commission on Human Rights (A/6342, annex II A) read as follows:

"1. The States Parties shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council after consultation with the States Parties to this Covenant and the specialized agencies concerned.

"2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under this Covenant.

"3. Where relevant information has already previously been furnished to the United Nations or to any specialized agency by any State Party it will not be necessary to reproduce that information but a precise reference to the information so furnished will suffice."

38. The Committee considered this article at its 1401st meeting.

Amendments

39. Amendments were submitted by the representatives of India, Iran, Nigeria, Pakistan, the United Arab Republic, Upper Volta (A/C.3/L.1354, paras. 3 and 4), later joined by Afghanistan, Congo (Brazzaville), Libya, Saudi Arabia and Syria, Italy (A/C.3/L.1358, paras. 3 and 4). Amendment submitted by the United States of America (A/C.3/L.1360, paras. 3 and 4) were withdrawn (see paragraph 21 above).

Paragraph 1

40. The first eleven-Power amendment (A/C.3/L.1354, para. 3) proposed to replace the words "programme to" in the second line by "schedule which will". This amendment was later withdrawn. The second eleven-Power amendment (A/C.3/L.1354, para. 4) was to insert in the same line, after the words "Economic and Social Council" the phrase: "within one year of the entry into force of this Covenant".

41. The amendment of Italy (A/C.3/L.1358, para. 3) proposed that the Commission's draft, after the words "their reports", should be replaced by the following: "within a period of one year from the date of entry into force of the Covenant and thereafter every two years. In addition, they shall furnish reports whenever the Economic and Social Council so requests." This amendment was later withdrawn.

New paragraph

42. Another amendment submitted by Italy (A/C.3/L.1358, para. 4) was to add a new paragraph reading as follows:

"On the basis of the reports received from States Parties to this Covenant, the Economic and Social Council may make suggestions and recommendations of a general nature, which it shall communicate to the General Assembly."

This proposal was, however, withdrawn at a later stage on the understanding that it would be considered in relation to article 22 of the Covenant (see paragraph 71 below).

Issues discussed

43. The meaning of the word "programme" in the original text of article 18 was considered by the Commission (A/2929, chapter IX, para. 2) to signify a programme for timing, form and substance of the reports submitted to the Council.

44. It was felt by most representatives that the timing of the reports should not be determined rigidly in the Covenant itself, as was proposed in the first Italian amendment (see paragraph 41 above) but that the Council should work out a flexible schedule after the consultations referred to in the Commission's draft.

45. Some representatives, supporting the first eleven-Power amendment (see para. 40 above), thought that the word "programme" as used in the original draft was too broad and should be replaced by the word "schedule" as, in their view, the determination of the contents of the report should be made by the States Parties and not by the Council. On the other hand, several representatives favoured the retention of the word "programme" as used in the original draft, for there was need, in their opinion, for the Council's guidance as regards the form, substance as well as timing of the reports. It was felt that if the States Parties were left without such guidance, wide divergencies in the form and contents of the reports might reduce the effectiveness of the procedure, and the reports might degenerate into vehicles of propaganda.

46. The representative of the Ukrainian SSR, supported by some other members, suggested the deletion of the words "and the specialized agencies concerned" in article 18, para. 1, since in their view the specialized agencies should not be placed on the same footing as the States Parties and not all such States might be members of the specialized agencies. Other representatives felt that such consultations would be of great importance, as those agencies were actively concerned with the implementation of many rights recognized in the Covenant.

47. There was general agreement that the States Parties should furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council "within one year of the entry into force of this Covenant".

Adoption of the article

48. At its 1402nd meeting, the Third Committee voted on the text of article 18 and the amendments thereto. The eleven-Power amendment (see paragraph 40 above) was adopted by 93 votes to 1, with 1 abstention. Paragraph 1, as amended, was adopted unanimously. Article 18 as a whole, as amended, was adopted unanimously.

49. The text of article 18 as adopted by the Third Committee reads as follows:

"1. The States Parties shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of this Covenant after consultation with the States Parties to this Covenant and the specialized agencies concerned.

"2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under this Covenant.

"3. Where relevant information has already previously been furnished to the United Nations or to any specialized agency by any State Party it will not be necessary to reproduce that information but a precise reference to the information so furnished will suffice."

Article 19

50. The text of article 19 of the draft Covenant on Economic, Social and Cultural Rights submitted by the Commission (A/6342, annex II A) read as follows:

"Pursuant to its responsibilities under the Charter in the field of human rights, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of this Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs."

51. The Committee considered this article at its 1402nd meeting.

Amendments

52. An amendment was submitted by India, Iran, Nigeria, Pakistan, the United Arab Republic, Upper Volta (A/C.3/L.1354, No. 5) later joined by Afghanistan, Congo (Brazzaville), Libya, Saudi Arabia and Syria, to add in the second line, after the word "rights", the words "and fundamental freedoms". An amendment submitted by the United States of America (A/C.3/L.1360, para. 5) was withdrawn (see paragraph 21 above).

Adoption of the article

53. At its 1402nd meeting, the Third Committee voted without debate on Article 19 and the amendment thereto. The eleven-Power amendment (see paragraph 52 above) was adopted by 95 votes to none, with 2 abstentions. Article 19 as a whole, as amended, was adopted unanimously.

54. The text of article 19 as adopted by the Third Committee reads as follows:

"Pursuant to its responsibilities under the Charter in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of this Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs."

Article 20

55. The text of article 20 of the draft Covenant on Economic, Social and Cultural Rights submitted by the Commission (A/6342, annex II A, part IV) read as follows:

"The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or as appropriate for information the reports concerning human rights submitted by States, and those concerning human rights submitted by the specialized agencies."

56. The Committee considered this article at its 1402nd meeting.

Amendments

57. Amendments were submitted by India, Iran, Nigeria, Pakistan, the United Arab Republic, Upper Volta (A/C.3/L.1354), later joined by Afghanistan, Congo (Brazzaville), Libya, Saudi Arabia and Syria. An amendment submitted by the United States of America (A/C.3/L.1360, para. 6) was withdrawn (see paragraph 21 above).

58. The first eleven-Power amendment (A/C.3/L.1354, para. 6) proposed to insert in the third line, after the phrase "submitted by States", the following: "in accordance with articles 17 and 18 of this Covenant". The other eleven-Power amendment (A/C.3/L.1354, para. 7) proposed to add at the end of the text the phrase "in accordance with article 19 of this Covenant".

Adoption of the article

59. At its 1402nd meeting the Third Committee voted without debate on article 20 and the amendments thereto. Both of the eleven-Power amendments (see paragraph 58 above) were adopted unanimously. Article 20 as a whole, as amended, was adopted unanimously.

60. The text of article 20 as adopted by the Third Committee reads as follows:

"The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or as appropriate for information the reports concerning human rights submitted by States in accordance with articles 17 and 18 of this Covenant, and those concerning human rights submitted by the specialized agencies in accordance with article 19 of this Covenant."

Article 21

61. The text of article 21 of the draft Covenant on Economic, Social and Cultural Rights submitted by the Commission (A/6342, annex II A), read as follows:

"The States Parties directly concerned and the specialized agencies may submit comments to the Economic and Social Council on any general recommendation under article 20 or reference to such general recommendation in any report of the Commission or any documentation referred to therein."

62. The Committee considered this article at its 1402nd meeting.

Amendments

63. Amendments were submitted by the representative of the United Kingdom of Great Britain and Northern Ireland (A/C.3/L.1350), (1) to delete the word "directly" in the first line after the words "States Parties" and (2) to insert in the same line, the word "concerned" after "specialized agencies".

Issues discussed

64. The author of the amendments pointed out in regard to her first proposal that the word "directly" would be meaningless, as the recommendations upon which the States Parties may comment would be general in nature. Some members felt that the word "directly" served to clarify the paragraph. As regards the second amendment it was pointed out that the article obviously was meant to refer to the States Parties as well as the specialized agencies concerned and not necessarily all of them. Some

members, however, thought that it would be better to refer to "competent" specialized agencies.

Adoption of the article

65. At its 1402nd meeting the Third Committee voted on article 21 and the amendments thereto.

66. The first amendment of the United Kingdom (see paragraph 63 above) was adopted by 44 votes to 7, with 41 abstentions. The second amendment of the United Kingdom was adopted by 79 votes to none, with 19 abstentions. Article 21, as a whole, as amended, was adopted unanimously.

67. The text of article 21 as adopted by the Third Committee reads as follows:

"The States Parties and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 20 or reference to such general recommendation in any report of the Commission or any documentation referred to therein."

Article 22

68. The text of article 22 of the draft Covenant on Economic, Social and Cultural Rights proposed by the Commission on Human Rights (A/6342, annex II A) read as follows:

"The Economic and Social Council may submit from time to time to the General Assembly, with its own reports, reports summarizing the information made available by the States Parties to the Covenant directly to the Secretary-General and by the specialized agencies under article ... indicating the progress made in achieving general observance of these rights."

69. The Committee considered this article at its 1403rd and 1404th meetings.

Amendments

70. An amendment by India, Iran, Nigeria, Pakistan, the United Arab Republic and Upper Volta (A/C.3/L.1354, para. 8), which was later co-sponsored by Afghanistan, Congo (Brazzaville), Libya, Saudi Arabia and Syria, sought to replace the text of article 22 by the following:

"The Economic and Social Council may submit from time to time to the General Assembly its own reports, the reports summarizing the information received by the Secretary-General from the States Parties to the Covenant and the reports received from the specialized agencies under article ... indicating the progress made in achieving general observance of these rights."

71. At the 1403rd meeting, the representative of Italy submitted as a sub-amendment to the eleven-Power proposal a text, originally presented as an amendment to article 18 (see paragraph 42 above), which read as follows (A/C.3/L.1358, para. 4):

"On the basis of the reports received from States Parties to this Covenant, the Economic and Social Council may make suggestions and recommendations of a general nature, which it shall communicate to the General Assembly."

72. Taking into account the sub-amendment by Italy, which was later withdrawn, as well as some other suggestions, the authors of the eleven-Power amendment revised their amendment as follows (A/C.3/L.1354/Corr.1):

"The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in this Covenant."

73. An amendment submitted by the United States of America (A/C.3/L.1360, para. 7) was withdrawn (see paragraph 21 above).

Issues discussed

74. It was generally agreed that the Council's own reports and recommendations to the Assembly should be of a "general" character in more than one sense: they should, if necessary, deal with the application everywhere of all the rights recognized in the Covenant, but they should not refer to any particular State. One opinion was, however, that Article 62 of the Charter seemed to place no such restriction on the competence of the Council to make recommendations.

75. As regards the timing of the Council's submissions to the General Assembly, some members thought that the term "from time to time" was meaningless, and they suggested that it should either be deleted or replaced by some more specific word, such as "periodically". Most representatives, however, considered that the Council should be free to decide on such matters, taking into account whatever arrangements would be made under article 18 as regards the timing of reports by the States Parties. According to some of those members the words "from time to time" rightly stressed the Council's discretion, in any given year, either not to submit anything to the Assembly or to seize it, as appropriate, with all or parts of the documentation referred to in article 22.

Adoption of the article

76. At its 1404th meeting the Committee voted on the revised eleven-Power amendment (see paragraph 72 above).
77. At the request of the representative of Guatemala, a separate vote was taken on the words "from time to time", and those words were retained by 50 votes to 27, with 17 abstentions. The eleven-Power amendment as a whole was unanimously adopted.
78. The text of article 22 as adopted by the Committee reads as follows:

"The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in this Covenant."

Article 23

79. The text of article 23 of the draft Covenant on Economic, Social and Cultural Rights proposed by the Commission on Human Rights (A/6342, annex II A) read as follows:

"The Economic and Social Council may bring to the attention of the international organs concerned with technical assistance or of any other appropriate international organ any matters arising out of the reports referred to in this part of the Covenant which may assist such organs in deciding, each within its competence, on the advisability of international measures likely to contribute to the progressive implementation of this Covenant."

80. The Committee considered this article at its 1404th meeting.

Adoption of the article

81. The Committee unaimously adopted, without debate, a new text proposed by India, Iran, Nigeria, Pakistan, the United Arab Republic and Upper Volta (A/C.3/L.1354, para. 9), which was later co-sponsored by Afghanistan, Congo (Brazzaville), Libya, Saudi Arabia and Syria, as orally revised.
82. The text of article 23 adopted by the Third Committee reads as follows:

"The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary bodies and specialized agencies concerned with furnishing technical assistance, any matters arising out of the reports referred to in this part of the Covenant which may assist such organs, in deciding each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of this Covenant."

Article 24

83. The text of article 24 of the draft Covenant on Economic, Social and Cultural Rights proposed by the Commission on Human Rights (A/6342, annex II A) read as follows:

"The States Parties to the Covenant agree that international action for the achievement of these rights includes such methods as conventions, recommendations, technical assistance, regional meetings and technical meetings and studies with Governments."

84. The Committee considered this article at its 1404th meeting.

Adoption of the article

85. The Committee unanimously adopted a new text proposed by the representatives of India, Iran, Nigeria, Pakistan, the United Arab Republic and Upper Volta, later joined by Afghanistan, Congo (Brazzaville), Libya, Saudi Arabia and Syria (A/C.3/L.1354, para. 10), as orally revised.

86. The text of article 24 adopted by the Third Committee reads as follows:

"The States Parties to the Covenant agree that international action for the achievement of the rights recognized in this Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned."

Article 25

87. The text of article 25 of the draft Covenant on Economic, Social and Cultural Rights proposed by the Commission on Human Rights (A/6342, annex II A) read as follows:

"Nothing in this Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies, which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in this Covenant."

88. The Committee considered this article at its 1404th meeting.

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Amendments

89. An amendment by India, Iran, Nigeria, Pakistan, the United Arab Republic and Upper Volta (A/C.3/L.1354, para. 11), later co-sponsored by Afghanistan, Congo (Brazzaville), Libya, Saudi Arabia and Syria, was to insert the words "full application of the ..." between the words "impairing the" and the word "provisions", so that the first two lines of the article would read: "Nothing in this Covenant shall be interpreted as impairing the full application of the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies, etc. ..."

Issues discussed

90. As explained by its authors, the amendment was based on the premise that the provisions of the Charter and of the Constitutions of the specialized agencies could not possibly be "impaired" by the Covenant. The question was rather to ensure that nothing in the Covenant would prejudice the full application of such provisions.

91. In the course of the debate, however, the authors of the eleven-Power amendment declared themselves prepared to accept a suggestion made by the representative of Venezuela, supported by several representatives, that both "the provisions and the full application" of those instruments be explicitly mentioned in the first line of article 25 after the word "impairing".

92. Some members thought that such a formula might raise some difficulties of interpretation. In order to avoid such difficulties, the eleven-Power amendment was withdrawn.

Adoption of the article

93. At the 1404th meeting the Committee unanimously adopted the Commission's draft.

94. The text of article 25 adopted by the Third Committee reads as follows:

"Nothing in this Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies, which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in this Covenant."

Article 25 bis

95. A proposal to add a new article 25 bis in part IV of the Covenant was submitted by Chile, Ghana, Guinea, India, Iran, Iraq, Nepal, Nigeria, Pakistan, Sudan, United Arab Republic, the United Republic of Tanzania, Venezuela and Yugoslavia (A/C.3/L.1357), later joined by Afghanistan, Algeria, Congo (Brazzaville), Panama, Libya, Mauritania, Mongolia and Jordan (A/C.3/L.1357/Add.1) and by Ethiopia, Kuwait, Liberia, Mali, Saudi Arabia and Syria. The text of the proposed article read as follows:

"Nothing in this Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources."

96. The Committee considered this proposal from its 1404th to its 1406th meetings.

Issues discussed

97. Some representatives questioned the advisability of formulating in absolute terms the peoples' rights of permanent sovereignty over their natural resources, which had already been recognized, with some qualifications, in article 1, paragraph 2, of the draft Covenant. In their view, however important any particular right might be, there was no ground for stating or implying that it should prevail upon all other rights and be subject to no limitation. Stressing that international economic co-operation helped significantly to promote the right in question, these representatives thought it necessary to refer, as in article 1, paragraph 2, to the obligations arising out of such co-operation in accordance with recognized principles of international law. The view was also expressed that a hasty adoption of the proposal might prejudice the recommendations which other United Nations bodies, particularly the Second and Sixth Committees of the General Assembly, intended to make on various aspects of the right in question.

98. The sponsors, supported by most representatives, maintained that the right of permanent sovereignty over natural resources was so important that no restriction thereof should be formulated in the draft Covenant. In their view, the reference to international economic co-operation contained in article 1, paragraph 2 could too easily be invoked in support of imperialist policies and practices tending to control

the economy of the developing countries and to impair thereby their political independence. Treaties allowing for such exploitation, which were concluded under duress or other inadmissible conditions, should not be condoned by the Covenant. However, it was pointed out by some of those members that the proposed article would not be a bar to international agreements which might be entered into by sovereign States, expressing the free will of the peoples concerned, and for their mutual benefit. The fact that other United Nations bodies were considering the matter confirmed its great importance, which should be duly recognized in the draft Covenant.

99. Some members of the Committee saw no contradiction between the proposed article and article 1, paragraph 2. Some other representatives, however, thought that the coexistence of the two provisions in the same treaty would give rise to serious difficulties of interpretation. It was also felt that the proposed article, which dealt with substantive matters, would be misplaced in part IV of the draft Covenant relating to measures of implementation. The sponsors, it was suggested, might rather submit amendments to article 1 when the text of the draft Covenant would be reviewed as a whole. However, the proposal was maintained as an additional article at the end of part IV of the draft Covenant, in order to stress that no substantive provision and no implementation clause should be regarded as impairing the peoples' right to the full and free enjoyment of their natural wealth and resources.

Adoption of the article

100. At its 1405th meeting, the Committee voted on the proposed new article (see paragraph 95 above) by roll-call at the request of the representative of the United Arab Republic. The proposed new article was adopted by 75 votes to 4, with 20 abstentions. The voting was as follows:

In favour: 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, 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.

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

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

101. The text of article 25 bis as adopted by the Third Committee reads as follows:

"Nothing in this Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources."

/...

FINAL CLAUSES (PART V) OF THE DRAFT COVENANT ON ECONOMIC,
SOCIAL AND CULTURAL RIGHTS

Article 26

102. The text of article 26 of the draft Covenant on Economic, Social and Cultural Rights proposed by the Commission on Human Rights (A/6342, annex II A) read as follows:

"Article 26

"1. This Covenant shall be open for signature and ratification or accession on behalf of any State Member of the United Nations or of any non-member State to which an invitation has been extended by the General Assembly.

"2. Ratification of or accession to this Covenant shall be effected by the deposit of an instrument of ratification or accession with the Secretary-General of the United Nations, and as soon as twenty States have deposited such instruments, the Covenant shall come into force among them. As regards any State which ratifies or accedes thereafter the Covenant shall come into force on the date of the deposit of its instrument of ratification or accession.

"3. The Secretary-General of the United Nations shall inform all Members of the United Nations, and other States which have signed or acceded, of the deposit of each instrument of ratification or accession."

103. The Committee considered this article at its 1407th to 1410th meetings and at its 1412th meeting, held on 28 October to 1 November and on 3 November 1966.

Amendments

104. Amendments to article 26 were submitted by the United Kingdom of Great Britain and Northern Ireland (A/C.3/L.1352); by the Ukrainian Soviet Socialist Republic (A/C.3/L.1359); by Dahomey, France, Guinea, Hungary, Mali, Mauritania, Syria, the United Arab Republic, the United Republic of Tanzania, and Venezuela, later joined as co-sponsors by Algeria, Congo (Brazzaville) and Greece (A/C.3/L.1367); and by the United States of America (A/C.3/L.1372).

105. The amendments of the United Kingdom (A/C.3/L.1352) sought the replacement of draft article 26 (see paragraph 102 above) by the following text:

/...

"1. Any State Member of the United Nations, or any State Member of any specialized agency of the United Nations, or any State Party to the Statute of the International Court of Justice, or any other State to which an invitation has been addressed by the General Assembly of the United Nations, may become a party to this Covenant by:

- (a) signature followed by acceptance
- (b) acceptance

"2. Acceptance shall be affected by the deposit of a formal instrument with the Secretary-General of the United Nations who shall inform all States belonging to any of the four categories mentioned in paragraph 1 of the deposit of each instrument of acceptance.

"3. This Covenant shall bear the date of its approval by the General Assembly. It shall enter into force as soon as twenty instruments of acceptance have been deposited without reservations.

"4. Instruments of acceptance deposited after the date of entry into force of this Covenant shall take effect on the date of their deposit, or, if accompanied by a reservation, on the date of the acceptance of that reservation in accordance with article ____.

"5. If within a period of four years following the date of approval of this Covenant by the General Assembly the Covenant has not entered into force, the Secretary-General shall compile a full report for transmission to the General Assembly."

106. The amendments of the Ukrainian Soviet Socialist Republic (A/C.3/L.1359) proposed the replacement:

- (a) Of paragraph 1 of article 26, by the following:

"This Covenant shall be open for signature and ratification or accession on behalf of any State";

- (b) Of paragraph 3 of article 26 by the following:

"The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession."

107. The thirteen-Power amendment (A/C.3/L.1367) proposed the replacement, in the third line of article 26, paragraph 2, of the words "twenty States" by the words "fifty States".

108. An amendment was submitted by Guatemala, Nigeria and Pakistan (A/C.3/L.1371) to the thirteen-Power amendment (A/C.3/L.1367), proposing the replacement in the latter text of the words "fifty States" by "thirty States".

109. The amendments of the United States of America (A/C.3/L.1372) proposed the replacement of article 26 (see paragraph 102 above) by the following two articles:

"Article 26

"1. This Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to this Covenant.

"2. This Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

"3. This Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

"4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

"Article 26 bis

"1. This Covenant shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the _____ instrument of ratification or instrument of accession.

"2. For each State ratifying this Covenant or acceding to it after the deposit of the _____ instrument of ratification or instrument of accession, the Covenant shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or instrument of accession."

110. At the 1409th meeting, the representative of the United States of America stated that she had no objection to inserting in the blank space of paragraph 1 of article 26 bis the figure of thirty-five, which had been suggested by many delegations. The sponsors of the thirteen-Power amendment (A/C.3/L.1367) and of the three-Power amendment (A/C.3/L.1371) thereupon withdrew their proposals in favour of the amendment of the United States of America (A/C.3/L.1372) with the insertion of "thirty-five".

111. Also at the 1409th meeting, the representative of the United Kingdom withdrew paragraphs 1 and 2 of the United Kingdom amendments (A/C.3/L.1352) to article 26, in favour of the amendments of the United States of America (A/C.3/L.1372). The United Kingdom proposed, however, the following amendments (A/C.3/L.1375) to article 26 bis in the amendment of the United States of America (A/C.3/L.1372, see paragraph 109 above):

(a) To add, at the end of paragraph 1, the words "made without reservations";

(b) In paragraph 2, to add, between the words "instrument of accession" and "the Covenant shall", the words "made without reservation"; and to add the following sentence at the end of the paragraph: "However, in the case of an instrument of ratification or accession accompanied by a reservation the Covenant shall enter into force for the State making the reservation on the thirtieth day after the acceptance of that reservation in accordance with article ...";

(c) To add, as a new paragraph 3, the text of paragraph 5 of the original United Kingdom amendments (A/C.3/L.1352, see paragraph 105 above).

These amendments were withdrawn at the 1412th meeting, in the light of the discussion and in consequence of the withdrawal by the United Kingdom of its proposal for an additional article relating to reservations (A/C.3/L.1353/Rev.2, see paragraphs 139 and 146 below).

112. An amendment to the amendment of the United States of America (A/C.3/L.1372) proposed by Iran (A/C.3/L.1376), to replace in paragraphs 1 and 2 of article 26 bis (see paragraph 109 above), the words "on the thirtieth day" by "three months" was accepted by the representative of the United States.

113. A further amendment proposed by Chile (A/C.3/L.1377) sought the replacement, in article 26 bis of the orally revised amendment of the United States of America (see paragraph 109 above), of the words "thirty-five" by the word "twenty".

Issues discussed

114. Representatives supporting the amendments proposed by the Ukrainian Soviet Socialist Republic (A/C.3/L.1359) felt that any clause denying or restricting the right of all States, whether or not Members of the United Nations or members of the specialized agencies, to become parties to the Covenant, would be

discriminatory and inconsistent with the objectives of the instrument. The principle of universality was gaining ever-wider recognition, both in General Assembly decisions, such as resolution 2028 (XX) on the non-proliferation of nuclear weapons and resolution 2054 (XX) on the policies of apartheid of the Government of the Republic of South Africa, and in multilateral instruments such as the 1963 Moscow Treaty banning nuclear weapons tests in the atmosphere, in outer space and under water; it was thus evident that any opposition to permitting universal participation in the Covenant was motivated solely by political considerations. Moreover, it was pointed out, any apprehension was groundless since participation by a State in a multilateral treaty did not imply that it necessarily recognized every other State party.

115. Others, however, preferred the participation formula envisaged in the first paragraph of the amendments submitted by the United Kingdom (A/C.3/L.1352) and the United States of America (A/C.3/L.1372). They stressed that it took into due account the principle of universality by providing for the possibility of the General Assembly inviting a State to become a party to the Covenant, even though such State was not a Member of the United Nations or a member of a specialized agency or a State Party to the Statute of the International Court of Justice. The principal advantage of this provision, in their view, was that it assigned the responsibility of deciding whether any given entity was a State to the General Assembly and not, as the "all States" formula would do, to the Secretary-General in his capacity as depositary of multilateral treaties concluded under United Nations auspices. Attention was drawn, in this connexion, to the statement of the Secretary-General at the 1258th plenary meeting (A/PV, paragraphs 99 to 101) of the General Assembly, in which he had said that if he were to receive an instrument of accession from an area the status of which was unclear, he would refer it to the General Assembly for advice on the action which he should take.

116. Some discussion centred on the proposal, contained in the United Kingdom amendments (A/C.3/L.1352), to replace the words "ratification or accession", in the text proposed by the Commission on Human Rights (A/6342, annex II A, part V, article 26), by "signature followed by acceptance" and, simply, "acceptance". It was explained by the sponsor of the amendments that the word "acceptance" was designed to facilitate participation for certain States whose constitutional law

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did not necessarily require parliamentary approval for acceding to all the international agreements. Other representatives, however, emphasized that "ratification or accession" had a universally recognized international significance appropriate for instruments of special importance or solemnity and that "acceptance", unlike "ratification", might involve no more than an executive decision without the approval of legislative organs. Attention was drawn to the statement of the International Law Commission in its commentary to article 11 of the draft articles on the law of treaties (A/6309, part II, article 11, commentary, para. (10)) that "on the international plane, 'acceptance' is an innovation which is more one of terminology than of method".

117. As regards the number of ratifications or accessions required for the Covenant to enter into force, the sponsors of the thirteen-Power amendment (see para. 107 above) contended that the figure of twenty recommended by the Commission on Human Rights was not consistent with the present broad membership of the United Nations. The figure of fifty, which the thirteen-Power amendment proposed, would at least prevent a premature entry into force from which only the States best prepared to implement at once the provisions of the Covenant might benefit. Other speakers, favouring the amendment submitted by Chile (see paragraph 113 above) thought that past experience had shown that ratifications tended to come in at so slow a rate that even the figure of twenty, as proposed in the amendment, might take many years to reach. Most representatives felt that an intermediate number should be set, between twenty and fifty, so as to reflect the increased membership of the Organization without, however, involving undue delay for the Covenant to come into force.

Adoption of article 26

118. At its 1410th meeting the Committee voted on the text of article 26 and the amendments thereto. In consequence of the discussion, the following texts arising out of article 26 (A/6342, annex II A, part V) were put to the vote first:

(a) The text proposed by the United States of America (A/C.3/L.1372) as article 26, and the amendments proposed by the Ukrainian Soviet Socialist Republic (A/C.3/L.1359), which the sponsor resubmitted as amendments to the United States text;

(b) The text proposed by the United States of America (A/C.3/L.1372) as article 26 bis, as orally amended (see paragraphs 109-110 above) and the amendment thereto proposed by Chile (A/C.3/L.1377). The voting was as follows:

(a) Paragraph 1

(i) At the request of the representative of Brazil, a roll-call vote was taken on the first amendment of the Ukrainian Soviet Socialist Republic (see paragraph 106 above) to the proposal of the United States of America (see paragraph 109 above). The amendment was rejected by 45 votes to 34, with 16 abstentions. The voting was as follows:

In favour: Afghanistan, Algeria, Bulgaria, Byelorussian Soviet Socialist Republic, Ceylon, Congo (Brazzaville), Cuba, Czechoslovakia, Ethiopia, Guinea, Hungary, India, Indonesia, Iran, Iraq, Kenya, Mali, Mauritania, Mexico, Mongolia, Morocco, Nepal, Poland, Romania, Saudi Arabia, Sierra Leone, Sudan, Syria, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Yugoslavia.

Against: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Canada, China, Colombia, Congo (Democratic Republic of), Costa Rica, Denmark, Dominican Republic, Ecuador, Finland, France, Greece, Guatemala, Honduras, Iceland, Ireland, Israel, Italy, Jamaica, Japan, Luxembourg, Madagascar, Malawi, Malaysia, Netherlands, New Zealand, Niger, Norway, Panama, Paraguay, Philippines, Portugal, Spain, Sweden, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Uruguay.

Abstaining: Cameroon, Central African Republic, Chad, Cyprus, Dahomey, Ghana, Ivory Coast, Kuwait, Lebanon, Liberia, Libya, Pakistan, Rwanda, Senegal, Tunisia, Zambia.

(ii) At the request of the representative of Brazil, a roll-call vote was taken on paragraph 1 of the proposal of the United States of America (see paragraph 109 above). The paragraph was adopted by 57 votes to 26, with 17 abstentions. The voting was as follows:

In favour: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Cameroon, Canada, Chile, China, Colombia, Congo (Democratic Republic of), Costa Rica, Denmark, Dominican Republic, Ecuador, Finland, France, Gabon, Ghana, Greece, Guatemala, Honduras, Iceland, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Malawi, Malaysia, Netherlands, New Zealand, Niger, Norway, Panama, Paraguay, Philippines, Portugal, Senegal, Spain, Sweden, Thailand, Togo, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Uruguay, Venezuela.

Against: Afghanistan, Algeria, Bulgaria, Byelorussian Soviet Socialist Republic, Congo (Brazzaville), Cuba, Czechoslovakia, Guinea, Hungary, Iraq, Jordan, Kenya, Mali, Mauritania, Mongolia, Morocco, Nepal, Poland, Romania, Saudi Arabia, Sierra Leone, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania.

Abstaining: Central African Republic, Ceylon, Chad, Cyprus, Dahomey, Ethiopia, India, Indonesia, Iran, Kuwait, Mexico, Pakistan, Rwanda, Sudan, Syria, Yugoslavia, Zambia.

(b) Paragraph 2

119. Paragraph 2 of the proposal of the United States of America (see paragraph 109 above) was adopted by 100 votes to none, with 2 abstentions.

(c) Paragraph 3

120. Paragraph 3 of the proposal of the United States of America (see paragraph 109 above) was adopted by 67 votes to 23, with 10 abstentions.

(d) Paragraph 4

121. Paragraph 4 of the proposal of the United States of America (see paragraph 109 above) was adopted unanimously.

(e) Paragraph 5

122. The second amendment of the Ukrainian Soviet Socialist Republic (see paragraph 106 above) was adopted as paragraph 5 of the United States amendment by 41 votes to 35, with 20 abstentions.

(f) Article 26 as a whole

123. The text of article 26 submitted by the United States of America (see paragraph 109 above) as amended, as a whole, was adopted by 74 votes to 2, with 20 abstentions.

124. The text of article 26 as adopted by the Third Committee reads as follows:

"Article 26

"1. This Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to this Covenant.

"2. This Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

"3. This Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

"4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

"5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession."

Adoption of article 26 bis

125. At its 1412th meeting the Committee voted on the text of article 26 bis proposed by the United States of America, as orally amended, (see paragraphs 109-110 above) and on the amendment thereto proposed by Chile (see paragraph 113 above).

126. At the request of the representative of Chile, a roll-call vote was taken on the amendment proposed by Chile. The amendment was rejected by 63 votes to 21, with 11 abstentions. The voting was as follows:

In favour: Afghanistan, Argentina, Bolivia, Canada, Chile, Colombia, Denmark, Dominican Republic, Ecuador, Finland, Iceland, Israel, Italy, Jamaica, New Zealand, Norway, Paraguay, Peru, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Algeria, Australia, Austria, Belgium, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Ceylon, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Czechoslovakia, Dahomey, Ethiopia, France, Ghana, Greece, Guatemala, Guinea, Guyana, Hungary, India, Indonesia, Iraq, Ivory Coast, Kenya, Kuwait, Lebanon, Liberia,

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Libya, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mongolia, Morocco, Netherlands, Nigeria, Pakistan, Poland, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Sudan, Syria, Thailand, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Upper Volta, Venezuela, Yugoslavia, Zambia.

Abstaining: Brazil, China, Cyprus, Honduras, Ireland, Japan, Mexico, Philippines, Portugal, Tunisia, Uruguay.

127. The text of article 26 bis proposed by the United States of America, as orally amended (see paragraphs 109-110 above) was adopted by 90 votes to none, with 1 abstention. It reads as follows:

"Article 26 bis

"1. This Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

"2. For each State ratifying this Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession."

Article 27

128. The text of article 27 of the draft Covenant on Economic, Social and Cultural Rights proposed by the Commission on Human Rights (A/6342, annex II A, part V) read as follows:

"Article 27

"The provisions of the Covenant shall extend to all parts of federal States without any limitations or exceptions."

Adoption of the article

129. This text submitted by the Commission was adopted by the Committee at its 1411th meeting by 72 votes to none, with 3 abstentions.

130. The text of article 27 as adopted by the Third Committee is set forth in paragraph 128 above.

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Article 28

131. The text of article 28 of the draft Covenant on Economic, Social and Cultural Rights proposed by the Commission on Human Rights (A/6342, annex II A, part V) read as follows:

"Article 28

"The provisions of the present Covenant shall extend to or be applicable equally to a signatory metropolitan State and to all the territories, be they Non-Self-Governing, Trust, or colonial Territories, which are being administered or governed by such metropolitan State."

Amendments

132. Amendments to the text of article 28 proposed by the Commission on Human Rights were submitted by the Ukrainian Soviet Socialist Republic (A/C.3/L.1359) and jointly by Algeria, Guinea, Lebanon, Mali, Mauritania, Morocco, Syria and the United Republic of Tanzania (A/C.3/L.1368 and Add.1).

133. The amendment of the Ukrainian Soviet Socialist Republic (A/C.3/L.1359) called for the deletion of article 28.

134. The eight-Power amendment (A/C.3/L.1368) proposed the addition, at the end of the article, of the following sentence:

"It is, however, clearly understood that the application of the provisions of the present Covenant to Non-Self-Governing, Trust or colonial Territories must in no case and in no way limit or delay the sacred right of their peoples to self-determination and independence, in accordance with the principles of the Charter of the United Nations and the relevant resolutions of the General Assembly."

Issues discussed

135. In the opinion of many representatives, a clause prescribing the extension of the Covenant's provisions to the dependent territories of States parties was unnecessary and might be harmful. Since the adoption of the Declaration on the Granting of Independence to Colonial Countries and Peoples the whole concept of colonial subjugation had been declared illegal, and any reference to such territories might therefore imply some kind of approval of an illegal practice.

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136. Certain speakers observed that, whatever its demerits, the colonial system remained a transitory fact of international life. Consequently, rather than shut its eyes to reality, the Committee should adopt article 28, as proposed by the Commission on Human Rights, together with the eight-Power amendment (see paragraph 134 above) which stated an incontrovertible truth.

137. There was wide agreement, however, that the absence of a territorial clause from the Covenant would not relieve an administering State from the duty to extend the benefits of the instrument's provisions to all its dependent territories. Several speakers recalled, in this connexion, the principle of the law of nations that the provisions of a treaty applied to the whole territory of a contracting party, both metropolitan and, where such territory existed, non-metropolitan. In answer to a question the Legal Counsel confirmed that such was the practice followed by the Secretary-General as depositary of multilateral agreements. He also drew attention to the fact that this practice had been endorsed by the International Law Commission in article 25 of the draft articles on the Law of Treaties (A/6309, part III, article 25, para. 2).

Deletion of the article

138. At its 1411th meeting, the Committee voted on the proposal of the Ukrainian Soviet Socialist Republic (A/C.3/L.1359) to delete article 28. At the request of the representative of the Congo (Brazzaville), the vote was taken by roll-call. The Ukrainian proposal was adopted by 92 votes to none, with 10 abstentions. The voting was as follows:

In favour: Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Central African Republic, Ceylon, Chad, Chile, Colombia, Congo (Brazzaville), Congo (Democratic Republic of), Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, Finland, Gabon, Ghana, Greece, Guatemala, Guinea, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya, Kuwait, Lebanon, Liberia, Libya, Madagascar, Malaysia, Mali, Mauritania, Mexico, Mongolia, Morocco, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Peru, Poland, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Somalia,

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Sudan, Sweden, Syria, Thailand, Tunisia, Turkey,
Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet
Socialist Republics, United Arab Republic, United Kingdom of
Great Britain and Northern Ireland, United Republic of
Tanzania, United States of America, Upper Volta, Yugoslavia,
Zambia.

Abstaining: China, France, Niger, Paraguay, Philippines, Portugal, Spain,
Togo, Uruguay, Venezuela.

Proposal to include an additional article on reservations
after article 28

139. At the 1410th meeting the United Kingdom introduced a proposal
(A/C.3/L.1353/Rev.1) for a new article, to be inserted after article 28, relating
to the question of reservations. As later revised, this proposal
(A/C.3/L.1353/Rev.2) read as follows:

"1. Any State may, on depositing its instrument of ratification or
accession to this Covenant, make a reservation which is not incompatible
with the object and purpose of this Covenant.

"2. As soon as this Covenant has entered into force in accordance with
paragraph ___ of article 26 bis the Secretary-General of the United Nations
shall circulate a copy of all reservations received by him to all States
which have by the date of circulation deposited an instrument of ratification
or accession with or without reservation.

"3. Copies of reservations received after the entry into force of this
Covenant shall forthwith be circulated by the Secretary-General to all States
parties thereto.

"4. A reservation shall be deemed to be accepted if not less than
two thirds of the States to whom copies have been circulated in accordance
with this article accept or do not object to it within a period of three
months, following the date of ratification.

"5. Upon the acceptance of a reservation in accordance with paragraph 4
of this article, the instrument of ratification or accession together with
the reservation shall become effective.

"6. Any State making a reservation in accordance with this article may
withdraw that reservation either in whole or in part at any time after its
acceptance, by a notice addressed to the Secretary-General; such notice shall
take effect on the date of its receipt; and a copy of such notice shall be
circulated by the Secretary-General to all States parties hereto.

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"7. In order to achieve the application to the fullest extent of the provisions of this Covenant, any State making a reservation in accordance with this article should, as soon as may be practicable, take such steps as will enable it to withdraw the reservation either in whole or in part."

140. The revised proposal of the United Kingdom was discussed by the Committee at its 1412th meeting.

Amendments

141. An amendment to the United Kingdom proposal was submitted by Chile. This amendment (A/C.3/L.1378) proposed the following:

(a) To insert, after paragraph 1, a new paragraph reading as follows:

"2. All reservations shall be temporary. A State making a reservation shall specify the period for which it is made."

(b) To renumber the following paragraphs.

(c) To delete paragraphs 6 and 7.

Issues discussed

142. Several representatives pointed out that the right of a contracting State to make reservations to a multilateral treaty was now an accepted principle of international law, subject to the proviso that such reservations were not incompatible with the object and purposes of the treaty. It was equally well established that an objection to a reservation by another contracting State precluded the entry into force of the treaty as between the objecting and reserving States unless a contrary intention was expressed by the objecting State.

143. In the view of several speakers, the existence of these principles rendered unnecessary the insertion of an article such as the one proposed by the United Kingdom (see paragraph 139 above), which also failed to show due respect to the sovereign will of a reserving State and of any other State which might accept a reservation that did not commend itself to a two-thirds majority of States parties. These speakers stressed, in particular, that the progressive process of implementation envisaged in the Covenant demanded that all States be free to make whatever reservations they deemed appropriate.

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144. Other representatives thought that not including an article on reservations and placing sole reliance on the general principles of international law to which reference had been made might lead to the disintegration of the Covenant into a series of bilateral agreements. They consequently supported the United Kingdom proposal which, in their view, would eliminate this risk and would leave any decision on the issue of compatibility to the contracting States as a collective body.

145. Representatives supporting the Chilean amendment (A/C.3/L.1378) contended that the very fact of the Covenant having to be put into effect progressively, as stipulated in article 2 of the Covenant, was an adequate reason for prohibiting reservations altogether. As a realistic measure, however, the Committee could authorize temporary reservations of a duration specified by the reserving State, thus assuring the universal and unrestricted application of the Covenant in the foreseeable future.

Withdrawal of the proposal and amendment

146. In the light of the discussion and having regard to the prevailing view, the representative of the United Kingdom withdrew her proposal (see paragraph 139 above) at the 1412th meeting in so far as the Covenant on Economic, Social and Cultural Rights was concerned. The representative of Chile thereupon withdrew his amendment (A/C.3/L.1378).

Article 29

147. The text of article 29 of the draft Covenant on Economic, Social and Cultural Rights (A/6342, annex II A, part V) read as follows:

"Article 29

"1. Any State Party to the Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendments to the States Parties to the Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one third of the States favours

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such a conference the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

"2. Such amendments shall come into force when they have been approved by the General Assembly and accepted by a two-thirds majority of the States Parties to the Covenant in accordance with their respective constitutional processes.

"3. When such amendments come into force they shall be binding on those Parties which have accepted them, other Parties being still bound by the provisions of the Covenant and any earlier amendment which they have accepted."

148. The Committee considered article 29 at its 1412th and 1413th meetings.

Amendments

149. Amendments to the above text were submitted by the Ukrainian Soviet Socialist Republic (A/C.3/L.1359). These amendments sought the following:

(a) The deletion, from the third sentence of paragraph 1, of the words "under the auspices of the United Nations";

(b) The insertion, in the fourth sentence of paragraph 1, of the words "shall be" before the words "adopted by a majority";

(c) The deletion, from the fourth sentence of paragraph 1, of the words "shall be submitted to the General Assembly of the United Nations for approval";

(d) The deletion from paragraph 2 of the words "approved by the General Assembly and".

150. The first amendment of the Ukrainian Soviet Socialist Republic (see preceding paragraph) was withdrawn by the sponsor at the 1412th meeting. The remaining amendments were withdrawn, in the light of the debate, at the 1413th meeting.

Issues discussed

151. In the opinion of certain representatives, the amendments proposed by the Ukrainian Soviet Socialist Republic would make the procedure of amending the Covenant both simpler and more realistic. Since some States Members of the United Nations were either hostile or indifferent to the Covenant the right of amendment should be vested solely in the States parties thereto.

152. The prevailing view, however, was that the General Assembly, as the body approving the Covenant in the first place, could not divest itself of the right to supervise and control any changes which might later be proposed. The maintenance of that link with the General Assembly would also ensure a continuing and growing commitment of the United Nations to the cause of human rights.

Adoption of the article

153. At the 1413th meeting, the Committee adopted the text of article 29 proposed by the Commission on Human Rights (A/6342, annex II A, part V) by 98 votes to none, with 1 abstention.

154. The text of article 29 as adopted by the Third Committee is set forth in paragraph 147 above.

Article 29 bis

155. At the 1412th meeting, the representative of the United States of America presented a proposal for a new article 29 bis. The proposed text (A/C.3/L.1374) read as follows:

"Article 29 bis (54 bis)

"The Secretary-General of the United Nations shall inform all States referred to in article _____, paragraph _____, of the following particulars:

- (a) Signatures, ratifications and accessions under article _____;
- (b) The date of the entry into force of this Covenant under article _____ and the date of the entry into force of any amendments under article _____."

156. At the 1413th meeting, the representative of the United States of America submitted a revised version (A/C.3/L.1374/Rev.1) of her proposal, which, besides including references to the relevant articles in the blank spaces, expanded the introductory sub-paragraph to read as follows:

"The Secretary-General of the United Nations shall inform all States referred to in article 26, paragraph 1, which have not been informed under paragraph 5 thereof, of the following particulars:"

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157. The revised version (A/C.3/L.1374/Rev.1) of the United States proposal was later withdrawn by the sponsor in favour of the original text (see paragraph 155 above).

158. The United States proposals were discussed by the Committee at its 1412th and 1413th meetings.

Amendments

159. At the 1413th meeting the representative of France orally proposed the rephrasing of the introductory phrase in the United States proposal (see paragraph 155 above) to read as follows:

"Irrespective of the notifications made under article 26, paragraph 5, of the present Covenant, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:"

160. This oral amendment was accepted by the representative of the United States of America.

Issues discussed

161. The discussion centred on the overlap and possible incompatibility of the United States proposal (see paragraph 155 above) with the text of paragraph 5 of article 26, which had been adopted on the proposal of the Ukrainian Soviet Socialist Republic (see paragraph 106 above).

162. It was pointed out that under article 26, paragraph 5, the Secretary-General was instructed only with respect to States that had signed and acceded to the Covenant. No information would be transmitted to other States, nor would any other State be informed of any action taken under the Covenant. Furthermore, no State, including earlier signatories, would be informed of new signatures. The United States proposal sought to fill these lacunae.

163. Some representatives, however, contended that, notwithstanding the oral amendment proposed by France (see paragraph 159 above), the adoption of two related provisions in different articles would introduce into the Covenant an element of untidy drafting. The intention was clear to the Committee, but the provisions could be incomprehensible to persons who had not participated in the elaboration of the

Covenant. It was pointed out, in this connexion, that both article 26, paragraph 5, and the United States proposal contained instructions to the Secretary-General, who would have little difficulty in interpreting them.

Adoption of the article

164. At the 1413th meeting the Committee voted on the United States proposal for a new article 29 bis (A/C.3/L.1374), as revised to include the amendment of the representative of France (see paragraphs 155 and 159 above).

165. At the request of the representative of Czechoslovakia a separate vote was taken on the words "referred to in paragraph 1 of the same article". At the request of the representative of the United States of America, the vote was taken by roll-call. The words were retained by 52 votes to 26, with 20 abstentions. The voting was as follows:

In favour: Argentina, Australia, Austria, Belgium, Brazil, Cameroon, Canada, Ceylon, Chad, Chile, China, Colombia, Congo (Democratic Republic of), Costa Rica, Denmark, Dominican Republic, Ecuador, Finland, France, Gabon, Greece, Guatemala, Honduras, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Lebanon, Liberia, Madagascar, Malawi, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Philippines, Portugal, Senegal, Sierra Leone, Sweden, Thailand, Togo, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Venezuela.

Against: Afghanistan, Algeria, Bulgaria, Byelorussian Soviet Socialist Republic, Congo (Brazzaville), Cuba, Czechoslovakia, Guinea, Hungary, Iran, Iraq, Mali, Mauritania, Mongolia, Morocco, Poland, Romania, Saudi Arabia, Somalia, Sudan, Syria, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania.

Abstaining: Burundi, Central African Republic, Cyprus, Dahomey, Ethiopia, Ghana, Guyana, India, Indonesia, Kenya, Kuwait, Libya, Mexico, Nigeria, Pakistan, Rwanda, Spain, Uruguay, Yugoslavia, Zambia.

166. The proposal of the United States of America (A/C.3/L.1374), as orally amended, was adopted by 62 votes to 1, with 31 abstentions.

167. The text of article 29 bis as adopted by the Third Committee reads as follows:

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"Article 29 bis

"Irrespective of the notifications made under article 26, paragraph 5, of the present Covenant, the Secretary-General shall inform all States referred to in paragraph 1 of the same article of the following particulars:

- (a) Signatures, ratifications and accessions under article 26;
- (b) The date of the entry into force of this Covenant under article 26 bis and the date of the entry into force of any amendments under article 29."

Article 29 ter

168. At the 1407th meeting, the delegations of India, Guatemala, Nigeria, and Pakistan submitted a proposal (A/C.3/L.1370) for the insertion of a final article in the draft Covenant on Economic, Social and Cultural Rights. The text read as follows:

"Article

"1. This Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

"2. The Secretary-General of the United Nations shall transmit certified copies of this Covenant, to all States belonging to any of the categories mentioned in article 26/51, paragraph 1, of the Covenant."

169. At the 1412th meeting, the sponsors of the proposed new article (A/C.3/L.1370) orally moved the replacement, in paragraph 2, of the words "belonging to any of the categories mentioned" by the words "referred to", and, at the 1414th meeting, the sponsors orally proposed the deletion, in paragraph 2, of the word and figure "paragraph 1".

170. The four-Power proposal (A/C.3/L.1370) was discussed by the Committee at its 1412th and 1414th meetings.

Issues discussed

171. The discussion revolved round the reference in paragraph 2 to article 26, which in the opinion of several speakers implied discrimination against certain States and represented a violation of the principle of universality (see paragraph 114 above).

Adoption of the article

172. The Committee voted on the four-Power proposal (A/C.3/L.1370), as orally amended, at its 1414th meeting.
173. Paragraph 1 of the four-Power proposal (A/C.3/L.1370) was adopted unanimously.
174. At the request of the representative of the Union of Soviet Socialist Republics, a separate vote was taken on the words "referred to in article 26 of this Covenant" in paragraph 2. The words were retained by 59 votes to 21, with 9 abstentions.
175. Paragraph 2, as orally amended (see paragraphs 168-169 above), was adopted by 65 votes to 2, with 23 abstentions.
176. The four-Power proposal (A/C.3/L.1370) as a whole, as orally amended (see paragraphs 168-169 above), was adopted by 81 votes to 1, with 9 abstentions.
177. The text of article 29 ter as adopted by the Third Committee reads as follows:

"Article 29 ter

"1. This Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

"2. The Secretary-General of the United Nations shall transmit certified copies of this Covenant to all States referred to in article 26 of this Covenant."

MEASURES OF IMPLEMENTATION (PARTS IV AND V) OF THE
DRAFT COVENANT ON CIVIL AND POLITICAL RIGHTS

178. From the 1414th to the 1419th meeting of the Committee, members considered the entire system of measures of implementation to be included in the Covenant on Civil and Political Rights.

179. The Commission's draft as transmitted by the Economic and Social Council (A/6342, annex II B) sought to establish a fact-finding and good offices committee, composed of persons serving in their individual capacity and which would be competent to receive and consider communications from any State Party alleging that another State Party was not giving effect to a provision of the Covenant. The States Parties would also submit for consideration by the Economic and Social Council reports on the measures which they had adopted to give effect to the rights recognized in the Covenant. While some members were in general agreement with the Commission's draft, a number of representatives thought that it should be substantially amended. The main views which were expressed in that connexion are briefly summarized below.

180. Some representatives, stressing the interdependence of all human rights, saw no differences as between the necessity of ensuring the respect of economic, social and cultural rights on the one hand and that of civil and political rights, on the other hand, which would justify the adoption of distinct systems of implementation. In their opinion, the system which had been approved for the implementation of the former rights, namely the submission of reports to the Economic and Social Council, should also apply in the field of civil and political rights (see paragraph 197 below). These members were opposed to the establishment of any procedure under which a State Party or an individual would complain before an international organ that another State Party had violated the rights recognized in the Covenant. In their view, such procedures would inevitably lead to interference into the domestic affairs of Member States, in violation of the Charter of the United Nations, and to increased international tensions.

181. A majority of representatives maintained, however, that, in contrast to the draft Covenant on Economic, Social and Cultural Rights, the system of implementation of the draft Covenant on Civil and Political Rights should not consist solely of a

reporting procedure. As most civil and political rights were defined with precision in the Covenant and could be secured forthwith, it would be possible for an international organ to ascertain, in specific instances, upon receipt of information or complaints, whether or not a State Party was fulfilling its obligations. The establishment of some appropriate procedure to that end was desirable in order to ensure the effectiveness of the Covenant. In the view of those members, all functions pertaining to the implementation of that instrument should be entrusted to a committee composed of persons acting in their individual capacity, and not to the Economic and Social Council (see paragraphs 199-200 below). The adoption of a system of international control in the field of civil and political rights would not be contrary to the Charter of the United Nations: by accepting the Covenants in the full exercise of their sovereignty, States Parties would undertake obligations of an international character, and it could hardly be claimed that the provisions of that instrument were matters falling within exclusive domestic jurisdiction.

182. It was fully recognized, however, that a proper balance should be struck between the requirement of a minimum effectiveness of implementation procedure on the one hand, and the need for securing the widest possible acceptance of the Covenant by Member States, on the other hand. Different views were expressed as regards the best means of achieving such a solution.

183. In the opinion of some members, the Covenant should contain mandatory provisions establishing a reporting system as well as a fact-finding and conciliation procedure to be set in motion upon the receipt of complaints or communications from States Parties (see paragraph 404 below). In addition, the right of individual petition should be recognized, if not in mandatory provisions, at least in an optional clause. According to those representatives, there was no reason to fear that, under such a system, the States Parties would be subjected to undue pressure or embarrassment, since conciliation would be the essential purpose of the scheme. Furthermore, acceptance of the Covenant in good faith should imply willingness to make that instrument as effective as possible.

184. A large number of representatives doubted whether, in the present state of international relations, far-reaching and mandatory complaints procedures could be widely accepted. Various factors of international tension and mutual suspicion

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still existed. Many new States were understandably eager to safeguard their recently-acquired independence. Several of those members therefore favoured a twofold system of implementation, consisting of a compulsory reporting procedure, and of an optional procedure of fact-finding and conciliation to be set in motion solely by the States Parties willing to accept such supplementary obligations (see paragraph 406 below). Some of the members who followed that general approach thought that an optional clause concerning individual petitions could also be included in the proposed system.

185. As alternatives to the broad systems of fact-finding and conciliation summarized in paragraphs 179, 183 and 184 above, two distinct proposals were made.

186. In accordance with one proposal (see paragraph 394 below), individual complaints would be first considered by national committees, composed of independent persons, to be established by each State Party to the Covenant. The names of the members of the committees would be registered with the United Nations, and lists of all complaints received by such bodies would be submitted confidentially to the Secretary-General. Only if the national committees rejected the complaint or were unable to obtain satisfaction for the complainant from the Government, could the individual concerned or the committee, as the case might be, bring the matter before the international organ established by the Covenant. The purpose of the proposal, as stated by its author, was to ensure the effective implementation of the Covenant, principally at the national level, or a preferable alternative to allowing States Parties to submit complaints against each other to an international organ. He feared that under the latter procedure, small States would inevitably suffer from unwarranted attacks of the great Powers. The optional character of such a clause would not meet the difficulty, since refusal to submit to the procedure in question would tend to be misconstrued as a confession of guilt. While the purpose of that proposal was commended by various members, it was generally thought that its adoption would give rise to constitutional difficulties for many States.

187. Another view was that wide acceptance of the Covenant should not be sought through the adoption of optional clauses. Such an approach would needlessly complicate the implementation procedures. As pointed out by various members, under those systems, the nationals of States Parties which had not accepted the optional

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clauses might review the action taken by States which had taken such a step. According to a few representatives, a better approach (see paragraphs 398 and 405 below) would be to establish a compulsory system of implementation which in substance, however, would be less restrictive of the States' sovereignty than the proposals mentioned in paragraphs 179, 183 and 184 above.

Article 27

188. The text of article 27 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"Article 27

"1. There shall be established a Human Rights Committee (hereinafter referred to as 'the Committee'). It shall consist of nine members and shall carry out the functions hereinafter provided.

"2. The Committee shall be composed of nationals of the States Parties to the Covenant who shall be persons of high moral standing and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having a judicial or legal experience.

"3. The members of the Committee shall be elected and shall serve in their personal capacity."

189. A statement by the Secretary-General of the financial implications of that proposal was issued in document A/C.3/L.1382.

190. The Committee considered this article from its 1414th to its 1420th meeting. As the discussion of this article was closely connected with that of the various functions which the proposed body might be called upon to perform, appropriate cross-references will be made to the summary contained in paragraphs 178-187 above.

Amendments

191. The representatives of India, Iran, Iraq, Libya, Mauritania, Nigeria, Pakistan, Senegal, Sierra Leone, Sudan, Tunisia, the United Arab Republic and Upper Volta submitted three amendments (A/C.3/L.1373 and Add.1, and Add.1/Corr.1, para. 1).

192. The first thirteen-Power amendment sought to replace the word "nine" by the word "eighteen" in paragraph 1, second line of the article.

193. The second of those amendments was to substitute the word "character" for the word "standing" in paragraph 2, second line of the article.

194. The third of those amendments was to delete the words "a judicial or" in paragraph 2, fourth line of the article.

195. A statement by the Secretary-General of the financial implications of those amendments was circulated in document A/C.3/L.1387.

196. The representative of Congo (Brazzaville) proposed (A/C.3/L.1388) to replace article 27 by the provisions of article 17 of the draft Covenant on Economic, Social and Cultural Rights, which read as follows:

"1. The States Parties to this Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

"2. All reports shall be submitted to the Secretary-General of the United Nations who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of this Covenant."

This amendment was withdrawn at the 1420th meeting.

Issues discussed

197. Some representatives objected to the establishment of the proposed committee. Stressing that the responsibilities of the Economic and Social Council under the Charter of the United Nations covered the whole field of human rights and that it was to consider reports on economic, social and cultural rights, those members proposed that the Council should perform the same functions in the field of civil and political rights (see paragraph 180 above). Entrusting the latter task to another body would, in their view, show disregard of the basic interdependence of all human rights. It was also said that these functions could be performed by the Council at a much lower cost than by a new body. Furthermore, while the Council was bound under the Charter to avoid any interference into the domestic affairs of Member States and would strive to maintain international understanding, there was no assurance that the proposed committee would abide by such standards.

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198. Stronger misgivings were expressed by those members as regards the other functions which such a committee might perform under various proposals: fact-finding and conciliation as well, perhaps, as the making of recommendations upon the receipt of complaints from the States Parties, and the consideration of individual petitions (see paragraph 180 above). In the view of those representatives, the risks of unwarranted attacks against States Parties and of international tension which were inherent in such schemes would be the greater if such a body were to play a major part in those procedures.

199. A number of other representatives, however, favoured the establishment of the proposed committee. While the Council, in co-operation with the specialized agencies, had taken useful action to promote economic, social and cultural rights, its record was somewhat less impressive in the field of civil and political rights. Burdened with many tasks, the Council might not give more than perfunctory treatment to the reports on civil and political rights. The committee provided for in the Commission's draft would be best suited to carry out a thorough and objective examination of such reports.

200. Furthermore, in the view of those members, only such an organ on the proposed committee could perform adequately the important tasks of fact-finding and conciliation contemplated in various proposals. Far from adding to the alleged dangers of such proposals, the existence of an impartial body, insulated from politics, would be the best guarantee against any possible misuse of the complaints procedures.

201. The cost of the proposed committee, as compared with that of entrusting certain functions to the Council, might not be as great as some other representatives feared. Note was taken of the fact that, under various existing international systems of fact-finding and conciliation only a small number of complaints were submitted by States. The view was also expressed that the States concerned should be prepared to pay the price of an effective implementation machinery.

202. The majority of the members accepted the Commission's draft, as amended by the thirteen-Power proposals (see paragraphs 191-194 above). It was agreed, in particular, that the membership of the Committee should be increased from nine to eighteen, in order to reflect the enlargement of the Organization since 1954.

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Adoption of the article

203. At its 1420th meeting, the Committee voted on the text of article 27 proposed by the Commission on Human Rights and on the amendments thereto.

Paragraph 1

204. The first thirteen-Power amendment (see paragraph 192 above) was adopted by 88 votes to none, with 3 abstentions.

205. Paragraph 1 as amended was adopted by 88 votes to none, with 3 abstentions.

Paragraph 2

206. The second thirteen-Power amendment (see paragraph 193 above) was adopted by 87 votes to 1, with 1 abstention.

207. The third thirteen-Power amendment (see paragraph 194 above) was adopted by 86 votes to none, with 3 abstentions.

208. Paragraph 2 as amended was adopted by 89 votes to none with 2 abstentions.

209. At the request of the representative of Nigeria, a roll-call vote was taken on article 27 as a whole, as amended. The article was adopted by 80 votes to none, with 5 abstentions. The voting was as follows:

In favour: Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Ceylon, Chile, China, Colombia, Congo (Brazzaville), Costa Rica, Cyprus, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Ethiopia, Finland, France, Ghana, Greece, Guatemala, Guinea, Guyana, Honduras, Hungary, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya, Lebanon, Liberia, Luxembourg, Madagascar, Malaysia, Mali, Mauritania, Mexico, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Philippines, Poland, Romania, Saudi Arabia, Sierra Leone, Spain, Sudan, Sweden, Thailand, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Upper Volta, Uruguay, Venezuela, Yugoslavia, Zambia.

Abstaining: Central African Republic, Congo (Democratic Republic of), Rwanda, Senegal, Togo.

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210. The text of article 27 of the draft Covenant on Civil and Political Rights, as adopted by the Third Committee, reads as follows:

"1. There shall be established a Human Rights Committee (hereinafter referred to as 'the Committee'). It shall consist of eighteen members and shall carry out the functions hereinafter provided.

"2. The Committee shall be composed of nationals of the States Parties to this Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.

"3. The members of the Committee shall be elected and shall serve in their personal capacity."

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Article 28

211. The text of article 28 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"Article 28

"1. The members of the Committee shall be elected from a list of persons possessing the qualifications prescribed in article 27 and nominated for the purpose by the States Parties to the Covenant.

"2. Each State Party to the Covenant shall nominate at least two and not more than four persons. These persons may be nationals of the nominating State or of any other State Party to the Covenant.

"3. A person shall be eligible to be renominated."

212. The Committee considered this article at its 1421st meeting.

Amendments

213. The representatives of India, Iran, Iraq, Libya, Mauritania, Nigeria, Pakistan, Senegal, Sierra Leone, Sudan, Tunisia, the United Arab Republic and Upper Volta submitted four amendments (A/C.3/L.1373 and Add.1 and Add.1/Corr.1, para. 2).

214. The first thirteen-Power amendment (A/C.3/L.1373 and Add.1, para. 2 (a)) sought the insertion in the first line of paragraph 1, between the words "elected" and "from", of the words "by secret ballot".

215. The second of those amendments (A/C.3/L.1373 and Add.1 and Add.1/Corr.1, para. 2 (b)) proposed the replacement, in the second line of paragraph 2, of the word "may" by "shall".

216. The third of those amendments (A/C.3/L.1373 and Add.1 and Add.1/Corr.1, para. 2 (c)) proposed the deletion from paragraph 2 of the words "or of any other State Party to the Covenant".

217. The fourth of those amendments (A/C.3/L.1373 and Add.1 and Add.1/Corr.1, para. 2 (d)) proposed the replacement in paragraph 3 of the words "to be re-nominated" by "for re-nomination".

218. At the 1421st meeting, after consultation with the representative of Chile, the sponsors of the thirteen-Power amendments (A/C.3/L.1373 and Add.1, and Add.1/Corr.1, para. 2) withdrew their amendments to paragraph 2

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(see paragraphs 215-216 above) in favour of a new proposed wording of that paragraph, to read as follows: "Each State Party to the Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State."

Adoption of the article

219. At its 1421st meeting the Committee voted on the text of article 28 proposed by the Commission on Human Rights and on the amendments thereto.

Paragraph 1

220. The first thirteen-Power amendment (see paragraph 214 above) was adopted by 69 votes to none, with 1 abstention.

221. Paragraph 1 as amended was adopted by 72 votes to none, with 1 abstention.

Paragraph 2

222. Paragraph 2, as orally amended by the sponsors of the thirteen-Power amendment in consultation with the representative of Chile (see paragraph 218 above) was adopted by 76 votes to none, with 7 abstentions.

Paragraph 3

223. The fourth thirteen-Power amendment (see paragraph 217 above), which was found to apply only to the English text, was adopted without objection.

Article 28 as a whole

224. Article 28 as a whole, as amended, was adopted by 87 votes to none with 2 abstentions. The text of article 28 of the draft Covenant on Civil and Political Rights, as adopted by the Third Committee, reads as follows:

"Article 28

"1. The members of the Committee shall be elected from a list of persons possessing the qualifications prescribed in article 27 and nominated for the purpose by the States Parties to the Covenant.

"2. Each State Party to the Covenant shall nominate at least two and not more than four persons. These persons may be nationals of the nominating State or of any other State Party to the Covenant.

"3. A person shall be eligible to be renominated."

Article 29

225. The text of article 29 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"Article 29

"1. At least three months before the date of each election of the Committee, other than an election to fill a vacancy declared in accordance with article 33, the Secretary-General of the United Nations shall address a written request to the States Parties to the Covenant inviting them to submit their nominations within two months.

"2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, and shall submit it to the International Court of Justice and to the States Parties to the Covenant.

"3. The Secretary-General of the United Nations shall request the International Court of Justice to fix the time of elections for members of the Committee and to elect such members from the list referred to in the preceding paragraph and in accordance with the conditions set out in this part of the Covenant."

226. The Committee considered this article at its 1421st meeting.

Amendments

227. Amendments were submitted by the United States of America (A/C.3/L.1390) and jointly by India, Iran, Iraq, Libya, Mauritania, Nigeria, Pakistan, Senegal, Sierra Leone, Sudan, Tunisia, the United Arab Republic and Upper Volta (A/C.3/L.1373 and Add.1 and Add.1/Corr.1, para. 3).

228. The amendments of the United States of America (A/C.3/L.1390) proposed:

(a) Before paragraph 1, to add a new paragraph worded as follows:

"1. The initial election shall be held six months after the date of the entry into force of this Covenant."

(b) At the end of the original paragraph 2, to add the words "no later than one month after the date of each election".

229. The Thirteen-Power amendments (A/C.3/L.1373 and Add.1 and Add.1/Corr.1, para. 3) sought the following:

(a) In paragraph 1, to delete all the words after "shall address" and to insert in their place "a written invitation to the States Parties to the Covenant to submit their nominations for membership of the Committee within two months".

(b) In paragraph 2, to insert, between "nominated" and "and shall", the words "with the indication of the States Parties which have nominated them".

(c) In paragraph 2, to delete the words "the International Court of Justice and to".

(d) To delete the whole of paragraph 3 and to insert in its place the following:

"Elections of the members of the Committee shall be held at a meeting of the States Parties convened by the Secretary-General at the Headquarters of the United Nations. At that meeting, for which two-thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting."

230. At the 1421st meeting, the representative of the United States of America agreed, in the light of the discussion, to amend her first amendment (see paragraph 228 above) so as to set the time-limit in the proposed new first paragraph at "no later than six months".

231. At the same meeting, the sponsors of the thirteen-Power amendments (see paragraph 229 above) accepted an oral proposal by Chile, Lebanon and the United States of America to replace the words "three months", in the opening phrase of the original paragraph 1 (A/6342, annex II B, see paragraph 225 above) by "four months". The sponsors also agreed to a proposal by the Union of Soviet Socialist Republics to replace the words "two months", at the end of their amendment to paragraph 1, by "three months".

Adoption of the article

232. At its 1421st meeting the Committee voted on the text of article 29 proposed by the Commission on Human Rights and on the amendments thereto.

New first paragraph

233. The first amendment of the United States of America (see paragraph 228 above) calling for the insertion of a new introductory paragraph, as orally amended (see paragraph 230 above), was adopted by 90 votes to none, with 3 abstentions.

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Paragraph 1

234. The thirteen-Power amendment to paragraph 1 (see paragraph 229 above), as orally amended (see paragraph 231 above) was adopted by 90 votes to none, with 1 abstention.

235. Paragraph 1 as a whole, as amended, was adopted by 91 votes to none, with 1 abstention.

Paragraph 2

236. The first thirteen-Power amendment to paragraph 2 (see paragraph 229 above), was adopted by 92 votes to none, with 1 abstention.

237. The second thirteen-Power amendment to paragraph 2 (see paragraph 229 above) was adopted by 83 votes to none, with 9 abstentions.

238. The amendment to paragraph 2 proposed by the United States of America (see paragraph 228 above) was adopted by 75 votes to none, with 16 abstentions.

239. Paragraph 2 as a whole, as amended, was adopted by 99 votes to none, with 2 abstentions.

Paragraph 3

240. The thirteen-Power amendment to paragraph 3 (see paragraph 229 above) was adopted by 90 votes to none with 1 abstention.

Article 29 as a whole

241. Article 29 as a whole, as amended, was adopted by 90 votes to none, with 1 abstention.

242. The text of article 29 of the draft Covenant on Civil and Political Rights, as adopted by the Third Committee, reads as follows:

"Article 29

"1. The initial election shall be held no later than six months after the date of the entry into force of this Covenant.

"2. At least four months before the date of each election of the Committee, other than an election to fill a vacancy declared in accordance with article 33, the Secretary-General of the United Nations shall address a written invitation to the States Parties to this Covenant to submit their nominations for membership of the Committee within three months.

"3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of States Parties which have nominated them, and shall submit it to the States Parties to this Covenant no later than one month before the date of each election.

"4. Elections of the members of the Committee shall be held at a meeting of the States Parties convened by the Secretary-General at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting."

Article 30

243. The text of article 30 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"Article 30

"1. The Committee may not include more than one national of the same State.

"2. In the election of the Committee consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization.

"3. The quorum laid down in article 25, paragraph 3, of the Statute of the International Court of Justice shall apply for the holding of the elections.

"4. The persons elected shall be those who obtain the largest number of votes and an absolute majority of the votes of all the members of the International Court of Justice."

244. The Committee considered this article at its 1422nd meeting.

Amendments

245. Amendments to article 30 were submitted by India, Iran, Iraq, Libya, Mauritania, Nigeria, Pakistan, Senegal, Sierra Leone, Sudan, Tunisia, the United Arab Republic and Upper Volta (A/C.L/1373 and Add.1 and Add.1/Corr.1, para. 4).

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246. The amendments proposed by the Thirteen-Powers called for the following:

- (a) The insertion in paragraph 2, after the word "civilization", of the words "and principal legal systems";
- (b) The deletion of paragraph 3;
- (c) The deletion of paragraph 4.

247. On the suggestion of the representative of Canada, the sponsors agreed to have the insertion under amendment (a) above read "as well as of the principal legal systems".

Adoption of the article

248. At its 1422nd meeting the Committee voted on the text of article 30 proposed by the Commission on Human Rights and on the amendments thereto.

Paragraph 1

249. Paragraph 1 of the text proposed by the Commission on Human Rights (see paragraph 243 above) was adopted unanimously.

Paragraph 2

250. The thirteen-Power amendment to paragraph 2 (see paragraph 246 above), as orally revised (see paragraph 247 above) was adopted unanimously.

251. Paragraph 2 as a whole, as amended, was adopted unanimously.

Paragraph 3

252. The thirteen-Power amendment calling for the deletion of paragraph 3 (see paragraph 246 above) was adopted unanimously.

Paragraph 4

253. The thirteen-Power amendment calling for the deletion of paragraph 4 (see paragraph 246 above) was adopted unanimously.

Article 30 as a whole

254. Article 30 as a whole, as amended, was adopted unanimously.

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255. The text of article 30 of the draft Covenant on Civil and Political Rights, as adopted by the Third Committee, reads as follows:

"Article 30

"1. The Committee may not include more than one national of the same State.

"2. In the election of the Committee consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization as well as of the principal legal systems."

Article 31

256. The text of article 31 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"Article 31

"1. The members of the Committee shall be elected for a term of five years. They shall be eligible for re-election if renominated. However, the terms of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the President of the International Court of Justice.

"2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of this Covenant."

257. The Committee considered this article at its 1423rd meeting.

Amendments

258. The representatives of India, Iran, Iraq, Libya, Mauritania, Nigeria, Pakistan, Senegal, Sierra Leone, Sudan, Tunisia, the United Arab Republic and Upper Volta submitted four amendments (A/C.3/L.1373 and Add.1 and Add.1/Corr.1, para. 5).

259. The thirteen-Power amendments proposed the following:

- (a) To replace the "five", in the first line of paragraph 1, by "four";
- (b) To replace the word "five", in the third line of paragraph 1, by "nine";

(c) To delete from paragraph 1 all the words in the last line after "by lot by the" and to insert in their place the phrase "Chairman of the meeting referred to in paragraph 4 of article 29 above";

(d) To substitute "the" for "this" before the word "Covenant" in paragraph 2. 260. At the 1423rd meeting, the sponsors of the thirteen-Power amendments (A/C.3/L.1373 and Add.1/Corr.1, para. 5) orally proposed that their amendment 5 (c) be modified to read: "shall be chosen by lot/ by the Secretary-General of the United Nations at the meeting referred to in article 29, paragraph 4, of this Covenant". This revised oral amendment was later withdrawn in favour of the amendment originally proposed (see preceding paragraph, sub-paragraph (c)).

Adoption of the article

261. At the 1423rd meeting the Committee voted on the text of article 31 proposed by the Commission on Human Rights and on the amendments thereto.

Paragraph 1

262. The first thirteen-Power amendment (see paragraph 259 above) was adopted unanimously.

263. The second thirteen-Power amendment (see paragraph 259 above) was adopted by 82 votes to none, with 1 abstention.

264. The third thirteen-Power amendment (see paragraph 259 above) was adopted unanimously.

265. Paragraph 1, as amended, was adopted unanimously.

Paragraph 2

266. The fourth thirteen-Power amendment (see paragraph 259 above) was withdrawn on the understanding that it would be taken into account during the final co-ordination of details in the draft Covenant.

267. Paragraph 2 was adopted unanimously.

Article 31 as a whole

268. Article 31, as a whole, as amended, was adopted unanimously.

269. The text of article 31 of the draft Covenant on Civil and Political Rights, as adopted by the Third Committee, reads as follows:

"Article 31

"1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in paragraph 4 of article 29 above.

"2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of this Covenant."

Article 32

270. The text of article 32 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II, B) read as follows:

"Article 32

"1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations who shall then declare the seat of such member to be vacant.

"2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations who shall declare the seat vacant from the date of death or the date on which the resignation takes effect."

271. The Committee considered this article at its 1423rd meeting.

Amendments

272. An amendment submitted by the Netherlands (A/C.3/1355, para. 1) sought the insertion, in paragraph 1, between the words "temporary character" and "the Chairman of the Committee", of the words "or to fulfil the conditions required for membership of the Committee". This amendment was withdrawn at the 1423rd meeting.

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273. In the course of the debate, the representative of Pakistan orally proposed the insertion in paragraph 2, after the word "resignation", of the words "or the prolonged absence" and the further insertion at the end of paragraph 2 of the words "or from the date on which the prolonged absence of the member is established by the Committee, in accordance with paragraph 1 of the article". These oral amendments were withdrawn in favour of a joint oral amendment proposed by the representatives of Pakistan and the Union of Soviet Socialist Republics, whereby paragraph 2 would remain in its original form, with the following sentence added: "In any other event referred to in paragraph 1 of this article, the seat shall be declared vacant from the date to be established by the unanimous decision of the Committee". This oral amendment was also withdrawn in the light of the discussion.

Issues discussed

274. As regards the amendment proposed by the Netherlands (see paragraph 272 above), there was wide agreement that a reference to the conditions for membership listed in article 27 was not strictly necessary and might even be ambiguous, since it could, in extreme circumstances, be used to silence a member.

275. In the opinion of certain speakers, the only possible reasons for a seat falling vacant could be death, resignation, or prolonged absence. Paragraph 2, of article 32, however provided only for the first two contingencies and failed to indicate on what date a seat would fall vacant in the case of the prolonged absence of a member. This lacuna should be filled with an explicit provision.

276. The prevailing view, however, was that to provide expressly for a vacancy occurring by reason of prolonged absence would be superfluous, since paragraph 1 implicitly covered any such possibility. Moreover, the Committee should avoid introducing any contradiction between paragraph 1, which required the Secretary-General to declare a seat vacant on the date on which he was notified of the vacancy by the Chairman of the Human Rights Committee, and paragraph 2, which, if amended as proposed by the representative of Pakistan and the Union of Soviet Socialist Republics, would provide for a different date.

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Adoption of the article

277. At its 1423rd meeting the Committee voted on the text of article 32 proposed by the Commission on Human Rights (see paragraph 270 above).

278. Paragraph 1 was adopted unanimously.

279. The Committee agreed to dispense with a vote on paragraph 2.

280. Article 32 as a whole was adopted unanimously.

281. The text of article 32 of the draft Covenant on Civil and Political Rights, as adopted by the Third Committee, reads as follows:

"Article 32

"1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations who shall then declare the seat of such member to be vacant.

"2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations who shall declare the seat vacant from the date of death or the date on which the resignation takes effect."

Article 33

282. The text of article 33 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"Article 33

"1. When a vacancy is declared in accordance with article 32 the Secretary-General of the United Nations shall notify each State Party to the Covenant, which may, if it is necessary, within one month, with a view to election to the vacant seat on the Committee, complete its list of available nominees to four persons.

"2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the International Court of Justice and the States Parties to the Covenant. The election for the vacancy shall then proceed in accordance with articles 29 and 30.

/...

"3. A member of the Committee elected to replace a member whose term of office has not expired, shall hold office for the remainder of that term. Provided that if such term of office will expire within six months after declaration of the vacancy in accordance with article 32, no nomination shall be requested and no election shall be held to fill that vacancy."

283. The Committee considered this article at its 1424th meeting.

Amendments

284. The representative of the United Kingdom of Great Britain and Northern Ireland proposed an amendment to paragraph 1 (A/C.3/L.1356/Rev.1, No. 1). The representatives of India, Iran, Iraq, Libya, Mauritania, Nigeria, Pakistan, Senegal, Sierra Leone, Sudan, Tunisia, the United Arab Republic and Upper Volta submitted five amendments (A/C.3/L.1373 and Add.1 and Add.1/Corr.1, para. 6 (a)-(e)) to the various paragraphs of the draft article.

Paragraph 1

285. The amendment of the United Kingdom (A/C.3/L.1356/Rev.1, No. 1) called for the replacement of paragraph 1 by the following:

"1. When a vacancy is declared in accordance with article 32, the Secretary-General of the United Nations shall notify the States Parties to the Covenant. Each such State may, within one month, submit nominations in accordance with article 28 for the purpose of filling the vacancy."

286. The first thirteen-Power amendment (A/C.3/L.1373 and Add.1 and Add.1/Corr.1) sought to delete paragraph 1 and to insert in its place a text reading as follows:

"When a vacancy is declared in accordance with article 32 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the Covenant which may within one month submit nominations as provided in paragraph 2 of article 28 with a view to election to the vacant seat on the Committee."

287. In the light of the amendments introduced to article 28 (see paragraphs 219-224 above), the representative of the United Kingdom withdrew her amendment to paragraph 1 (see paragraph 285 above), but orally proposed that the words "as provided" in the first thirteen-Power amendment (see paragraph 286 above) be nevertheless replaced by "in accordance with". She also orally proposed that the words

"with a view to election", in the same amendment, be replaced by "for the purpose of filling the vacancy". Those oral sub-amendments were accepted by the sponsors of the thirteen-Power amendment (see paragraph 286 above).

288. In the light of the discussion, the representative of India orally proposed that in conformity with the Committee's earlier decisions to allow sufficient time to the States Parties to submit nominations (see paragraphs 232-242 above), the words "one month" in paragraph 1 be changed to "two months". This oral amendment was also accepted by the sponsors of the thirteen-Power amendments.

Paragraph 2

289. The second thirteen-Power amendment (see paragraph 284 above) proposed the deletion from paragraph 2 of the words "International Court of Justice and".

290. The third thirteen-Power amendment (see paragraph 284 above) sought the replacement, in the last line of paragraph 2, of the word "proceed" by "take place".

291. The fourth thirteen-Power amendment (see paragraph 284 above) called for the replacement, in paragraph 2, of the words "articles 29 and 30" by the words "paragraph 4 of article 29, and with article 30 of this Covenant".

292. After a brief discussion of the references to other provisions of the Covenant in paragraph 2, the representative of Chile orally proposed that the final phrase of the paragraph be amended to read "in accordance with the relevant provisions of this part of the Covenant". This oral amendment was accepted by the sponsors of the thirteen-Power proposal in substitution for their fourth amendment.

Paragraph 3

293. The fifth thirteen-Power amendment (see paragraph 284 above) proposed the replacement of paragraph 3 by the following text:

"A member of the Committee elected to fill a vacancy declared in accordance with article 32 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article."

294. The fifth thirteen-Power amendment, as explained by the sponsors, was consequential upon the thirteen-Power amendment to paragraph 1 of the article (see paragraph 286 above).

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Adoption of the article

295. At its 1424th meeting the Committee voted on the text of article 33 proposed by the Commission on Human Rights and on the amendments thereto.

Paragraph 1

296. The text of paragraph 1, as proposed by the thirteen-Power amendment (see paragraph 286 above), as orally amended (see paragraph 287 above) was adopted unanimously.

Paragraph 2

297. The second thirteen-Power amendment (see paragraph 289 above) was adopted unanimously.

298. The third thirteen-Power amendment (see paragraph 290 above) was adopted unanimously.

299. The fourth thirteen-Power amendment, as orally amended (see paragraphs 291-292 above) was adopted unanimously.

300. Paragraph 2, as amended, was adopted unanimously.

Paragraph 3

301. The fifth thirteen-Power amendment (see paragraph 293 above) was adopted unanimously.

Article 33 as a whole

302. Article 33 as a whole, as amended, was adopted unanimously.

303. The text of article 33 of the draft Covenant on Civil and Political Rights, as adopted by the Third Committee, reads as follows:

"Article 33

"1. When a vacancy is declared in accordance with article 32 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to this Covenant which may within two months submit nominations in accordance with paragraph 2 of article 28 for the purpose of filling the vacancy.

/...

"2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to this Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of this Covenant.

"3. A member of the Committee elected to fill a vacancy declared in accordance with article 32 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article."

Article 34

304. The text of article 34 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"Article 34

"1. Subject to the provisions of article 32, a member of the Committee shall remain in office until a successor has been elected. But if the Committee has, prior to the election of his successor, begun to consider a case, he shall continue to act in that case, and his successor shall not act in it.

"2. A member of the Committee elected to fill a vacancy declared in accordance with article 32 shall not act in any case in which his predecessor had acted, unless the quorum provided in article 39 cannot be obtained."

305. This article was considered by the Committee at its 1424th meeting.

Amendments

306. The representatives of India, Iran, Iraq, Libya, Mauritania, Nigeria, Pakistan, Senegal, Sierra Leone, Sudan, Tunisia, the United Arab Republic and Upper Volta submitted an amendment calling for the deletion of article 34 (A/C.3/L.1373 and Add.1 and Add.1/Corr.1, para. 7).

Issues discussed

307. In the opinion of certain speakers, article 34 would serve the important purpose of ensuring that, upon the expiry of the term of office of a member of the Committee or upon a vacancy arising thereon in any other manner under articles 31 and 32 (see paragraphs 269 and 281 above), any matter under

consideration by the Committee at the time would nevertheless be considered by the same persons until its disposal or conclusion.

308. Other representatives, however, stressed that the Committee now envisaged was no longer the same as the quasi-judicial body originally proposed by the Commission on Human Rights, which would have remained in virtually permanent session and would therefore have needed the maximum continuity of membership. The Committee established by the Covenant would be more in the nature of a functional organ holding periodic sessions, whose members, moreover, could not, save in the case of death or resignation, cease to carry out their functions without the unanimous decision of the Committee. In the event of such a unanimous decision, it was hard to imagine how a member could remain in office further. In addition, the practical difficulties of applying article 34 might be considerable.

Deletion of article 34

309. At its 1424th meeting the Committee adopted, by 69 votes to 15, with 10 abstentions, the thirteen-Power amendment (see paragraph 306 above) calling for the deletion of article 34 as proposed by the Commission on Human Rights.

Article 35

310. The text of article 35 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide having regard to the importance of the Committee's responsibilities."

311. The Committee considered this article at its 1424th meeting. A statement of the financial implications of this article was submitted by the Secretary-General (A/C.3/L.1382).

Issues discussed

312. Certain representatives felt that the cost of the Committee should be borne solely by the States Parties to the Covenant. Other speakers, stressing that the Committee must maintain the closest possible link with the United Nations, contended that the expenses should be met out of the regular budget of the Organization.

Adoption of the article

313. At its 1424th meeting the Committee voted on article 35 as proposed by the Commission on Human Rights.

314. Article 35 (see paragraph 310 above) was adopted by 81 votes to none, with 14 abstentions.

315. The text of article 35 of the draft Covenant on Civil and Political Rights, as adopted by the Third Committee, reads as follows:

"Article 35

"The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide having regard to the importance of the Committee's responsibilities."

Article 35 bis

316. The representative of the United Kingdom of Great Britain and Northern Ireland submitted a proposal (A/C.3/L.1356/Rev.1, para. 2) for a new article, to be inserted between articles 35 and 36, dealing with the privileges and immunities of members of the Human Rights Committee.

317. The Third Committee, at its 1424th meeting, decided to consider this proposal at a later stage (see paragraph 476 below).

Article 36

318. The text of article 36 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"Article 36

"1. The Secretary of the Committee shall be a high official of the United Nations, elected by the Committee from a list of three names submitted by the Secretary-General of the United Nations.

"2. The candidate obtaining the largest number of votes and an absolute majority of the votes of all the members of the Committee shall be declared elected.

"3. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the Committee and its members; the staff shall be part of the United Nations Secretariat."

319. The Committee considered this article at its 1425th meeting.

Amendments

320. The representatives of India, Iran, Iraq, Libya, Mauritania, Nigeria, Pakistan, Senegal, Sierra Leone, Sudan, Tunisia, the United Arab Republic and Upper Volta submitted three amendments (A/C.3/L.1373 and Add.1 and Add.1/Corr.1, para. 8).

321. The thirteen-Power amendments sought the following:

- (a) To delete paragraph 1;
- (b) To delete paragraph 2;
- (c) In paragraph 3, to delete from the second line all the words after "facilities" and before "the staff", and to insert therein "for the effective performance of the functions of the Committee under the Covenant".

Issues discussed

322. Some representatives voiced misgivings regarding the thirteen-Power amendments (see paragraph 321 above), believing that the text proposed by the Commission on Human Rights (see paragraph 318 above) would give both the Committee and the Secretary it elected a desirable measure of autonomy. The prevailing view, however, was that the character of the Committee having changed, the best course of action was to make provisions similar to those applicable to other United Nations bodies.

Adoption of the article

323. At its 1425th meeting the Committee voted on the text of article 36 proposed by the Commission on Human Rights (see paragraph 318 above) and on the amendments thereto.

324. The first thirteen-Power amendment (see paragraph 318 above) was adopted by 88 votes to none, with 3 abstentions.

325. The second thirteen-Power amendment (see paragraph 318 above) was adopted by 91 votes to none with 1 abstention.

326. The third thirteen-Power amendment (see paragraph 318 above) was adopted unanimously.

327. Article 36 as a whole, as amended, was adopted unanimously.

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328. The text of article 36 of the draft Covenant on Civil and Political Rights, as adopted by the Third Committee, reads as follows:

"Article 36

"The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Covenant."

Article 37

329. The text of article 37 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) reads as follows:

"Article 37

"1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

"2. After its initial meeting, the Committee shall meet:

- (a) At such times as it deems necessary;
- (b) When any matter is referred to it under article 40;
- (c) When convened by its Chairman or at the request of not less than five of its members.

"3. The Committee shall meet at the Headquarters of the United Nations or at Geneva."

330. The Committee considered this article at its 1425th meeting.

Amendments

331. The representatives of India, Iran, Iraq, Libya, Mauritania, Nigeria, Pakistan, Senegal, Sierra Leone, Sudan, Tunisia, the United Arab Republic and Upper Volta presented five amendments (A/C.3/L.1373 and Add.1 and Add.1/Corr.1, para. 9). An amendment was also proposed by the representative of the United States of America (A/C.3/L.1390, para. 2).

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332. The thirteen-Power amendments proposed the following:

- (a) To delete sub-paragraph 2 (a);
- (b) To delete sub-paragraph 2 (b);
- (c) In sub-paragraph 2 (c), to replace "five" by "ten";
- (d) In paragraph 3, to insert, between "shall" and "meet", the word

"normally";

(e) In paragraph 3, to insert, before "Geneva", the words "the United Nations office at".

333. The amendment of the United States of America sought the addition, at the end of paragraph 2, of a further sub-paragraph reading as follows: "(d) At such other times as shall be provided in its rules of procedure".

334. After some discussion, the representative of the United States of America agreed to the deletion of sub-paragraphs 2 (a) and (b), as envisaged in the thirteen-Power amendments (see paragraph 332 above), and orally proposed the deletion of sub-paragraph 2 (c) and the replacement of the whole of paragraph 2 by a text reading as follows: "After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure". This proposal was accepted by the sponsors of the thirteen-Power amendments who accordingly withdrew their three amendments to paragraph 2 (see paragraph 332 above).

Adoption of the article

335. At its 1425th meeting, the Committee voted on the text of article 37 proposed by the Commission on Human Rights (see paragraph 329 above) and on the amendments thereto.

Paragraph 1

336. Paragraph 1, as proposed by the Commission on Human Rights, was adopted unanimously.

Paragraph 2

337. The text of paragraph 2 orally proposed by the representative of the United States of America (see paragraph 333 above) was adopted by 93 votes to none, with 2 abstentions.

Paragraph 3

338. The fourth thirteen-Power amendment (see paragraph 332 above) was adopted unanimously.

339. The fifth thirteen-Power amendment (see paragraph 332 above) was adopted by 97 votes to none, with 1 abstention.

340. Paragraph 3, as amended, was adopted unanimously.

Article 37 as a whole

341. Article 37 as a whole, as amended, was adopted unanimously.

342. The text of article 37 of the draft Covenant on Civil and Political Rights, as adopted by the Third Committee, reads as follows:

"Article 37

"1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

"2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

"3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations office at Geneva."

Article 38

343. The text of article 38 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"Article 38

"Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will exercise his powers impartially and conscientiously."

344. The Committee considered this article at its 1425th meeting.

Amendments

345. The representatives of India, Iran, Iraq, Libya, Mauritania, Nigeria, Pakistan, Senegal, Sierra Leone, Sudan, Tunisia, the United Arab Republic and Upper Volta submitted an amendment (A/C.3/L.1373 and Add.1 and Add.1/Corr.1, para. 10) whereby the words "exercise his powers" would be replaced by "perform his functions".

346. The representative of the Union of Soviet Socialist Republics, believing that the text of article 38, even with the thirteen-Power amendment, would implicitly recognize that the Committee had some judicial attributes, orally moved the deletion of article 38.

Adoption of the article

347. At its 1425th meeting the Committee voted on the text of article 38 proposed by the Commission on Human Rights (see paragraph 343 above) and on the amendments thereto.

348. The motion of the representative of the Union of Soviet Socialist Republics, calling for the deletion of article 38, was rejected by 47 votes to 19, with 27 abstentions.

349. The thirteen-Power amendment (see paragraph 345 above) was adopted by 83 votes to none, with 12 abstentions.

350. Article 38, as amended, was adopted by 81 votes to 9, with 7 abstentions.

351. The text of article 38 of the draft Covenant on Civil and Political Rights, as adopted by the Third Committee, reads as follows:

"Article 38

"Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously."

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Article 39

352. The text of article 39 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"Article 39

"1. The Committee shall elect its Chairman and Vice-Chairman for the period of one year. They may be re-elected. The first Chairman and the first Vice-Chairman shall be elected at the initial meeting of the Committee.

"2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:

(a) Seven members shall constitute a quorum;

(b) Decisions of the Committee shall be made by a majority vote of the members present; if the votes are equally divided the Chairman shall have a casting vote;

(c) If a State refers a matter to the Committee under article 40:

(i) Such State, the State complained against, and any State Party to this Covenant whose national is concerned in such matter may make submissions in writing to the Committee;

(ii) Such State and the State complained against shall have the right to be represented at the hearing of the matter and to make submissions orally;

(d) The Committee shall hold hearings and other meetings in closed session."

353. The Committee considered this article at its 1425th and 1426th meetings.

Amendments submitted

354. The representatives of India, Iran, Iraq, Libya, Mauritania, Nigeria, Pakistan, Senegal, Sierra Leone, Sudan, Tunisia, the United Arab Republic and Upper Volta submitted four amendments to the article (A/C.3/L.1373 and Add.1 and Corr.1, para. 11). The representative of the United States of America submitted three amendments to paragraph 1 (A/C.3/L.1390, para. 2).

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355. The thirteen-Power amendments (see paragraph 354 above) proposed the following:

- (a) To replace, in the second line of paragraph 1, the word "one" by "two";
- (b) To replace, in sub-paragraph 2 (a), the word "seven" by "twelve";
- (c) To delete from sub-paragraph 2 (b), all the words after "members present";
- (d) To delete sub-paragraphs 2 (c) and (d);

356. The amendments of the United States of America (see paragraph 354 above) sought the following changes in paragraph 1:

- (a) To replace the words "Chairman and Vice-Chairman" by "officers";
- (b) To replace "for a period of one year" by "for a term of two years";
- (c) To delete the third sentence.

357. The representative of the United States of America agreed that her second amendment (see paragraph 356 above) was in substance the same as the first thirteen-Power amendment (see paragraph 355 above) and that, consequently, the two should be voted on as one.

Issues discussed

358. There was general agreement that the notion of a casting vote by the Chairman, which derived from article 55 of the Statute of the International Court of Justice, would be out of place in the context under discussion.

359. Several speakers urged the retention of sub-paragraph 2 (d), which provided that the meetings of the Committee should be held in private, in order to ensure confidential treatment for the communications which the Committee would receive. Some other representatives felt that it might be preferable to leave the decision on that point to the Committee itself. The prevailing view was that the matter should be considered in the context of article 40 and other articles, which set forth any procedures for dealing with communications and complaints (see paragraphs 436 and 473 below).

Adoption of article 39

360. At the 1426th meeting, the Committee voted on the text of article 39 proposed by the Commission on Human Rights (see paragraph 352 above) and on the amendments thereto. The voting was as follows:

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Paragraph 1

361. The first thirteen-Power amendment (see paragraph 355 above) as revised to include the second amendment of the United States of America was adopted unanimously.

362. The first amendment of the United States of America (see paragraph 356 above) was adopted by 71 votes to none, with 1 abstention.

363. The third amendment of the United States of America (see paragraph 356 above) was adopted by 73 votes to none, with 2 abstentions.

364. Paragraph 1, as amended, was adopted unanimously.

Paragraph 2

365. The second thirteen-Power amendment (see paragraph 355 above) was adopted unanimously.

366. The third thirteen-Power amendment (see paragraph 355 above) was adopted unanimously.

367. The fourth thirteen-Power amendment (see paragraph 355 above) in so far as it proposed the deletion of sub-paragraph 2 (d), was adopted by 50 votes to 2, with 37 abstentions.

368. The fourth thirteen-Power amendment (see paragraph 355 above), in so far as it proposed the deletion of sub-paragraph 2 (c), was adopted by 85 votes to none, with 4 abstentions.

369. Paragraph 2, as amended, was adopted by 87 votes to none, with 2 abstentions.

370. Article 39 as a whole, as amended, was adopted unanimously.

371. The text of article 39 of the draft Covenant on Civil and Political Rights, as adopted by the Third Committee, reads as follows:

"Article 39

"1. The Committee shall elect its officers for a term of two years. They may be re-elected.

"2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:

(a) Twelve members shall constitute a quorum;

(b) Decisions of the Committee shall be made by a majority vote of the members present."

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Article 39 bis

372. The representatives of India, Iran, Libya, Nigeria, Pakistan, Senegal, Sudan, the United Arab Republic and Upper Volta submitted an amendment calling for the insertion of a new article, provisionally numbered 39 bis, which in its revised form (A/C.3/L.1379/Rev.1, para. 1) read as follows:

"1. The States Parties to this Covenant undertake to submit reports on the measures they have adopted and the progress made in giving effect to the rights recognized herein (a) within one year of the entry into force of this Covenant for the States concerned and (b) thereafter whenever the Committee so requests.

"2. All reports shall be submitted to the Secretary-General who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of this Covenant.

"3. The Committee shall study the reports submitted by the States Parties. It shall transmit its reports and such comments as it may consider appropriate to the States Parties concerned. The Committee may also transmit to the Economic and Social Council its comments along with the copies of the reports it has received from States Parties to the Covenant.

"4. The States Parties may submit to the Committee observations on any recommendation that may be made in accordance with paragraph 3 of this article."

373. Before the discussion of this amendment, the sponsors orally revised the text as follows: the word "concerned" in the second sentence of paragraph 3 was deleted; the word "general" was inserted before the word "comments" in the second sentence of paragraph 3; in the third sentence of paragraph 3, the word "its" was replaced by "these"; and the word "recommendation", in paragraph 4, was replaced by comments".

374. In the light of the discussion, the sponsors submitted a further oral revision, whereby the first part of paragraph 1 was revised to read:

"The States Parties to this Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights..."

375. The Committee considered this amendment at its 1426th and 1427th meetings.

Sub-amendments submitted

376. Sub-amendments to the nine-Power proposal were submitted by the United States of America (A/C.3/L.1391, para.1) and by the United Kingdom of Great Britain and Northern Ireland (A/C.3/L.1404).

377. The sub-amendment of the United States of America (A/C.3/L.1391, para.1) sought the replacement of all the words in paragraph 1 before "(a) within" by the following:

"The States Parties to this Covenant undertake to submit reports on the legislative, judicial or other action taken which gives effect to the rights recognized herein:".

This amendment was withdrawn at the 1427th meeting.

378. The sub-amendment of the United Kingdom (A/C.3/L.1404) proposed the insertion, between paragraphs 2 and 3, of a paragraph reading as follows:

"(3) The specialized agencies shall receive from the Secretary-General copies of such parts of the reports concerning the rights as fall within their respective fields of activity."

379. The text of the amendment submitted by the United Kingdom was orally revised by its sponsor, in the course of the discussion, to read as follows:

"The Secretary-General may after consultation with the Committee transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence".

Issues discussed

380. Many representatives thought that the text proposed in the nine-Power amendment (A/C.3/L.1379/Rev.1, para.1) represented a substantial improvement over the text originally proposed by the Commission on Human Rights as article 49 (A/6342, annex II B). It was also stressed that, since the procedure of conciliation envisaged in the proposed article 40 et seq. was to be purely optional, care should be taken to ensure the efficacy of the only other means of implementation, namely, the reporting system.

381. Certain representatives felt that the reports from the States Parties should be sent to the Economic and Social Council and not to the Human Rights Committee.

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The Committee, an autonomous body composed of persons acting in their personal capacity, should not be placed above national institutions and the Council.

382. Several speakers expressed doubts regarding the notion of progressiveness introduced in paragraph 1. A State should not ratify the Covenant until its legislation was in conformity with the provisions of that instrument; and acceptance of the principle of progressive implementation might nullify the conciliation procedure proposed in articles 40 et seq., as any State against which a complaint was lodged might invoke that principle as an excuse for inaction.

383. Certain representatives, supporting the amendment of the United States of America (see paragraph 377 above), thought that States Parties should be given some guidance regarding the contents of their reports and should be encouraged to furnish meaningful information. In particular, their attention should be drawn to the need of reporting legislative measures and the action taken by the courts to carry those measures into effect.

384. Other speakers, however, considered the formula proposed by the United States of America needlessly restrictive. In their view, the formulation contained in the nine-Power amendment (see paragraph 372 above), which spoke of "measures" without qualification, would give States Parties greater freedom to report on the entire range of steps taken to ensure compliance with the Covenant. Legislative and judicial measures, while of vital importance, were not the only measures possible. Moreover, the formula used in the nine-Power amendment had already been approved in connexion with article 17 of the draft Covenant on Economic, Social and Cultural Rights.

385. As regards the amendment of the United Kingdom (see paragraph 378 above), some representatives thought that it was unnecessary, since the nine-Power text (A/C.3/L.1379/Rev.1, para.1) already provided for the possibility of the reports being transmitted by the Committee to the Economic and Social Council, to which the specialized agencies had access. Other speakers, however, believed that the United Kingdom amendment would greatly help to prevent duplication in certain matters wherein a given specialized agency might have a special procedure or interest. It was also stressed, in this connexion, that it would be understood that the Secretary-General would not transmit to a specialized agency a report emanating from a State which was not a member of that agency.

Adoption of article 39 bis

386. At its 1427th meeting, the Committee voted on the text of article 39 bis proposed in the nine-Power amendment (see paragraphs 372-374) and on the amendments thereto. The voting was as follows:

Paragraph 1

387. At the request of the representative of Tunisia, a separate vote was taken on the words "and (b) thereafter whenever the Committee so requests". The words were retained by 78 votes to 3, with 10 abstentions.

388. Paragraph 1 as a whole, as orally amended (see paragraphs 372-374 above), was adopted by 91 votes to none, with 2 abstentions.

Paragraph 2

389. At the request of the representative of Tunisia, a separate vote was taken on the words "who shall transmit them to the Committee for consideration". The words were retained by 87 votes to 1, with 2 abstentions.

390. At the request of the representative of Chile, a separate vote was taken on the second sentence of paragraph 2. The sentence was retained by 75 votes to 10, with 4 abstentions.

391. Paragraph 2 was adopted by 89 votes to none, with 2 abstentions.

New paragraph 3

392. The new paragraph proposed in the amendment of the United Kingdom (see paragraph 378 above), as orally revised (see paragraph 379 above) was adopted by 70 votes to 9, with 3 abstentions.

Paragraph 4 (original paragraph 3)

393. At the request of the representative of Canada, a separate vote was taken on the word "general" (see paragraph 373 above). The word was retained by 44 votes to 29, with 12 abstentions.

394. Paragraph 4 (original paragraph 3), as orally revised (see paragraph 373 above), was adopted by 86 votes to none, with 2 abstentions.

Paragraph 5 (original paragraph 4)

395. Paragraph 5 (original paragraph 4), as orally revised (see paragraph 373 above), was adopted by 79 votes to none, with 6 abstentions.

396. Article 39 bis as a whole, as amended, was adopted by 82 votes to none, with 2 abstentions.

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397. The text of article 39 bis of the draft Covenant on Civil and Political Rights, as adopted by the Third Committee, reads as follows:

"Article 39 bis

"1. The States Parties to this Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights: (a) within one year of the entry into force of this Covenant for the States concerned and (b) thereafter whenever the Committee so requests.

"2. All reports shall be submitted to the Secretary-General who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of this Covenant.

"3. The Secretary-General may after consultation with the Committee transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.

"4. The Committee shall study the reports submitted by the States Parties. It shall transmit its reports and such general comments as it may consider appropriate to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the Covenant.

"5. The States Parties may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article."

Article 40

398. The text of article 40 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"1. If a State Party to the Covenant considers that another State Party is not giving effect to a provision of the Covenant, it may, by written communication, bring the matter to the attention of that State. Within three months after the receipt of the communication, the receiving State shall afford the complaining State an explanation or statement in writing concerning the matter, which should include, to the extent possible and pertinent, references to domestic procedures and remedies taken, or pending, or available in the matter.

"2. If the matter is not adjusted to the satisfaction of both Parties within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Secretary of the Committee, and to the other State.

"3. Subject to the provisions of article 41 below, in serious and urgent cases the Committee may, at the request of the complaining State, deal expeditiously with the matter on receipt of that request in accordance with the powers conferred on it by this part of the Covenant and after notifying the States concerned."

399. The Committee considered this article from its 1414th to its 1421st meetings and at its 1428th meeting. As the discussion of this article was closely connected with that of other aspects of the implementation system to be included in the draft Covenant on Civil and Political Rights, appropriate cross-references will be made to the summary contained in paragraphs 178-187 above.

Amendments

400. Amendments were submitted by Saudi Arabia (A/C.3/L.1334) and by India, Iran, Libya, Nigeria, Pakistan, Senegal, Sudan, the United Arab Republic and Upper Volta (A/C.3/L.1379 and Rev.1 and Rev.1/Corr.1). Amendments to the nine-Power amendments (A/C.3/L.1379/Rev.1) were submitted by the United States of America (A/C.3/L.1391, para. 2), France (A/C.3/L.1393) and Chile and Ghana (A/C.3/L.1397, para. 1 and A/C.3/L.1397/Corr.1).

401. The amendment by Saudi Arabia (A/C.3/L.1334) was to replace article 40 by the following text:

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"1. Every State should constitute a National Committee consisting of nine members chosen from independent and objective persons not having any official connexion with the Government of the State.

"2. Any person claiming that any of his rights enumerated in the Covenant has been violated may submit his case before this Committee.

"3. The National Committee shall ascertain the facts and if it deems that the case is well founded shall endeavour to obtain satisfaction for the petitioner from the Government.

"4. In the event the said Committee does not succeed in obtaining satisfaction for the petitioner or should the Committee dismiss the case, either the Committee or the petitioner, as the case may be, shall have the right to appeal to the United Nations Committee established by article 27.

"5. The names of the members constituting the National Committee shall be registered with the United Nations.

"6. The National Committee shall have an appropriate register to enter any complaint or alleged violation submitted to it, regardless of whether such complaint or violation is entertained by it or not.

"7. Certified copies of the register mentioned in the previous paragraph shall be submitted by the National Committee to the Secretary-General on the understanding that the contents of such certified copies shall not be disclosed and will be kept confidential by the Secretary-General."

This amendment was withdrawn at the 1420th meeting.

402. The nine-Power amendment in its original form (A/C.3/L.1379, para. 2) proposed to replace article 40 by the following:

"1. A State Party, under this article, may at any time declare that it recognizes the competence of the Committee to receive and consider complaints to the effect that a State Party claims that another State Party is not fulfilling obligations under the Covenant. Complaints under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of this Committee. No communication shall be received by the Committee if it concerns a State Party which had not made such a declaration. Such complaints shall be dealt with in accordance with the following procedure:

(a) If a State Party considers that another State Party is not giving effect to the provisions of this Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication, the receiving State shall afford the complaining State an explanation or any other statement in writing

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clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, or pending, or available in the matter.

(b) If the matter is not adjusted to the satisfaction of both Parties within six months after the receipt of the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee by notice given to the Committee, and also to the other State.

(c) The Committee shall deal with the matter referred to it after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies would be unreasonably prolonged.

(d) In any matter referred to it, the Committee may call upon the States concerned to supply any relevant information.

(e) The States Parties concerned (referred to in sub-paragraph (b) above) shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing.

(f) Subject to the provisions of sub-paragraph (c) of paragraph 1 of this article, the Committee shall ascertain the facts and make available its good offices to the States concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in this Covenant.

(g) The Committee shall in every case, and in any event not later than eighteen months after the date of receipt of the notice under sub-paragraph (a) of paragraph 1 of this article, draw up a report which will be communicated to the States Parties concerned.

(h) If a solution within the terms of sub-paragraph (f) of paragraph 1 of this article is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached. If such a solution is not reached, the Committee shall draw up a report on the facts. The written submissions and the record of oral submissions made by the Parties to the case in accordance with sub-paragraph (e) of this article shall be attached to the report.

"2. The provisions of this article shall come into force when ten States Parties to this Covenant have made such a declaration. A declaration made in accordance with this article shall be deposited by the States Parties concerned with the Secretary-General of the United Nations who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General but such withdrawal shall not affect complaints pending before the Committee."

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403. This amendment was subsequently revised to read as follows (A/C.3/L.1379/Rev.1):

"1. A State Party, under this article, may at any time declare that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling obligations under the Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of this Committee. No communication shall be received by the Committee if it concerns a State Party which had not made such a declaration. Such communications shall be dealt with in accordance with the following procedure:

(a) If a State Party considers that another State Party is not giving effect to the provisions of this Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication, the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, or pending, or available in the matter.

(b) If the matter is not adjusted to the satisfaction of both Parties within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee by notice given to the Committee, and also to the other State.

(c) The Committee shall deal with the matter referred to it after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies would be unreasonably prolonged.

(d) In any matter referred to it, the Committee may call upon the States concerned to supply any relevant information.

(e) The States Parties concerned (referred to in sub-paragraph (b) above) shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing.

(f) Subject to the provisions of sub-paragraph (c) of paragraph 1 of this article, the Committee shall make available its good offices to the States concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in this Covenant.

(g) The Committee shall in every case, and in any event not later than eighteen months after the date of receipt of the notice under sub-paragraph (a) of paragraph 1 of this article, draw up a report which will be communicated to the States Parties concerned.

(h) If a solution within the terms of sub-paragraph (f) of paragraph 1 of this article is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached. If such a solution is not reached, the Committee shall draw up a report on the facts. The written submissions and the record of oral submissions made by the Parties to the case in accordance with sub-paragraph (e) of this article shall be attached to the report.

"2. The provisions of this article shall come into force when ten States Parties to this Covenant have made such a declaration. A declaration made in accordance with this article shall be deposited by the States Parties concerned with the Secretary-General of the United Nations who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General but such withdrawal shall not affect matters pending before the Committee."

404. The amendments of the United States of America (A/C.3/L.1391, para. 2) to the revised nine-Power amendment (see para. 403 above) were as follows:

"(a) Delete everything before paragraph 1(a).

"(b) In paragraph 1(c), replace "the matter" by "a matter"; after the words "referred to it", add "under paragraph (b) of this article"; replace the word "case" by "matter", and insert paragraph 1(c) after paragraphs (d) and (e), renumbering them as (c) and (d).

"(c) Delete paragraphs 1(f), (g) and (h).

"(d) Delete paragraph 2."

The United States amendments were withdrawn at the 1420th meeting.

405. The amendment of France (A/C.3/L.1393) was to replace article 40 as proposed in the revised nine-Power amendment by the following articles 40 to 43:

"Article 40

"1. If a State Party considers that another State Party is not giving effect to the provisions of this Covenant, it may, by written communication bring the matter to the attention of that State Party. Within three months after the receipt of the communication, the receiving State shall afford the State which sent the communication an explanation or statement in writing which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, or pending, or available in the matter.

"2. If the matter is not adjusted to the satisfaction of both Parties within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee by notice given to the Secretary of the Committee and to the other State.

"Article 41

"The Committee shall not normally deal with a matter referred to it unless available domestic remedies have been invoked and exhausted in the case. Where the application of the remedies is unreasonably prolonged, the Committee may, in serious and urgent cases, invite the State concerned to accelerate the procedure.

"Article 42

"On the basis of the communication and the reply and with the agreement of the States Parties concerned, the Committee shall endeavour to bring the said Parties to an amicable solution in accordance with the provisions of this Covenant.

"The Committee may, if necessary and with the agreement of the States concerned, appoint an ad hoc conciliation commission.

"Article 43

"1. The Committee shall in every case, and in no event later than eighteen months after the date of receipt of the notice under article 40, draw up a report which will be sent to the States concerned and then communicated to the other States Parties to the Covenant.

"2. If a solution within the terms of article 42 is reached the Committee shall confine its report to a brief statement of the facts and of the solution reached.

"3. If such a solution is not reached and it proves impossible to institute the procedure prescribed in article 42, the Committee shall draw up a report reproducing the texts of the communication and the reply of the States concerned. The Committee may make general comments, excluding any conclusion or recommendation addressed directly to the Parties.

"If the report does not represent in whole or in part the unanimous opinion of the Committee, any member of the Committee shall be entitled to attach to it his personal comments."

Article 40 in the sub-amendment of France was voted upon at the 1420th meeting as applying to the third version of the nine-Power proposal (see paragraph 408 below), but the remainder of the sub-amendment was withdrawn.

406. The representatives of Chile and Ghana proposed (A/C.3/L.1397, para. 1) to replace the second sentence of paragraph 1(c) of article 40 as proposed in the revised nine-Power amendment by the following text:

"This shall not be the rule where there are no local remedies to exhaust or where the application of the remedies would be unreasonably prolonged."

407. This sub-amendment by Chile and Ghana was subsequently revised (A/C.3/L.1397/Corr.1) to replace the whole of paragraph 1(c) of article 40 as proposed in the revised nine-Power amendment by the following text:

"The Committee shall deal with a matter referred to it after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law and the principles and purposes of this covenant. This shall not be the rule where the application of the remedies is unduly delayed or appears to be insufficient, illusory or ineffective in security adequate redress."

This revised sub-amendment was withdrawn at the 1428th meeting.

408. The nine-Power amendment was again revised (A/C.3/L.1379/Rev.1/Corr.1) to read as follows:

"1. A State Party, under this article, may at any time declare that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling obligations under the Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of this Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party considers that another State Party is not giving effect to the provisions of this Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication, the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter.

(b) If the matter is not adjusted to the satisfaction of both Parties within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State.

(c) The Committee shall deal with a matter referred to it after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies would be unreasonably prolonged.

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(d) Subject to the provisions of sub-paragraph (c) of paragraph 1 of this article, the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in this Covenant.

(e) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in sub-paragraph (b), to supply any relevant information.

(f) The States Parties concerned, referred to in sub-paragraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing.

(g) The Committee shall, within twelve months after the date of receipt of notice under sub-paragraph (b) of this paragraph, submit a report:

- (i) If a solution within the terms of sub-paragraph (d) of this paragraph is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached.
- (ii) If a solution is not reached, within the terms of sub-paragraph (d) of this paragraph, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter the report shall be communicated to the States Parties concerned.

"2. The provisions of this article shall come into force when ten States Parties to this Covenant have made such a declaration. A declaration under this article shall be deposited by the States Parties with the Secretary-General of the United Nations who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General of the United Nations unless the State Party concerned has made a new declaration."

409. At the 1428th meeting, the representative of France orally proposed to include a new sub-paragraph between sub-paragraphs (c) and (d) of paragraph 1 in the revised nine-Power amendment (see paragraph 408 above). The text of the proposed sub-paragraph was as follows:

"The Committee shall hold closed meetings when examining communications under this article."

The new sub-paragraph was accepted by the sponsors of the nine-Power amendment.

Issues discussed

Optional or mandatory character of the fact-finding and conciliation procedure

410. Under the Commission's draft (see paragraph 398 above) as well as under the proposals of Saudi Arabia (see paragraph 401 above), the United States of America (see paragraph 404 above) and France (see paragraph 405 above), it would be mandatory for any State Party against which a complaint would be made, to submit to a fact-finding and conciliation procedure. Under the introductory paragraph of article 40 as proposed by the nine Powers (see paragraph 408 above), acceptance of such a procedure would be optional for the States Parties.

411. Some members thought that the Covenant should contain a fact-finding and conciliation clause no less effective than that proposed by the nine Powers, and that submission to such a procedure should be mandatory for the States Parties concerned (see paragraph 183 above). Since the Human Rights Committee would be composed of impartial members and would not be empowered to criticize any State, nor to take any binding decisions, there was no reason to fear that it would unduly interfere into the domestic affairs of the States Parties. There would be little justification for the establishment of that body and for the cost involved, if the optional clause proposed by the nine Powers never came into force or if only ten States accepted it. It was also undesirable that the policies of Governments bound by the optional clause should be reviewed, in the Committee, by the nationals of States which had not accepted such a provision.

412. A few representatives favoured the adoption of a mandatory clause for some of the reasons mentioned in paragraph 411 above, but felt that such a provision, in order to elicit wide acceptance, should be less far-reaching than the Commission's draft or the nine-Power proposal. The amendment of France (see paragraph 405 above) gave expression to that view.

413. Most representatives, however, thought that adoption of the optional article proposed by the nine Powers would provide a satisfactory solution to the main problems raised during the debate (see paragraph 184 above). It was felt that, if such provision were mandatory, many States nowadays would hesitate to ratify the Covenant. The international community must be given some time to overcome existing remnants of mutual suspicion. It could be readily understood that the

new Member States, in particular, showed very great care to safeguard their independence. The governments of several developing countries also feared that their real difficulties in securing forthwith some of the rights recognized in the Covenant might be misconstrued as bad will by the Human Rights Committee. However, as all such difficulties would gradually disappear, an increasing number of States Parties would no doubt accept the optional clause proposed by the nine Powers, and thereby give full effect to the system of implementation of the Covenant. This approach was generally preferred to that mentioned in paragraph 412 above, which was considered likely to perpetuate a weak system of implementation.

Procedure under the optional system

414. Several representatives noted that sub-paragraph 1 (a) of the nine-Power text (see paragraph 403 above) failed to show how the Committee was to know the date from which the period of six months mentioned in sub-paragraph 1 (b) would begin to run. Perhaps it might have been better to provide that, upon sending a written communication to another State, the complaining State should inform the Committee of its act. In one representative's view, the very first communication should go to the Committee; it would then have to be supported by evidence and could not serve as an instrument of intimidation.

415. Many speakers, urging the adoption of the French proposal concerning closed meetings (see paragraph 409 above) voiced the opinion that privacy would prevent use being made of the Committee as an instrument of propaganda. Certain other representatives, however, felt that public meetings would discourage false accusations and the resulting loss of prestige.

416. Attention was drawn to the difference between sub-paragraph 1 (g) and article 43 (2) of the text of the Covenants prepared by the Commission on Human Rights (A/6342, annex II B). The Commission's text provided that, if a solution was not reached, the Committee would draw up a report on the facts and state its opinion as to whether the facts found disclosed a breach by the States concerned of its obligations under the Covenant; the nine-Power amendment, on the other hand, stated that, if a solution was not reached, the Committee would confine itself to a "brief statement of the facts". In the opinion of some speakers, the change greatly weakened the implementation machinery. The sponsors of the nine-Power amendment stated, in reply, that the change was consistent with the

transformation of the Committee from an adjudicating body into an organ of conciliation, and that the brief statement of facts would, in any event, reflect all the facts which the Committee might ascertain.

417. As regards the provisions of paragraph 2 allowing the withdrawal of a declaration recognizing the Committee's competence, as defined in article 40, some representatives felt that permitting such withdrawal after a State had already once exercised its free option would render the whole implementation procedure almost worthless. Certain representatives thought that the proposed withdrawal clauses were so complex that they might lead to abuse. Others believed that the last sentence of paragraph 2 introduced an unwelcome element of compulsion and might lead to interference in domestic affairs. The sponsors of the nine-Power amendment explained that, under paragraph 2, whereas a State against which a complaint had been lodged could not withdraw its declaration until consideration of that complaint had been completed, the same State would be protected against the institution of a new complaint before the first one had been dealt with. The restriction on withdrawal would apply only to the first communication.

Adoption of the article

418. At its 1420th meeting, the Committee voted on the introductory part of paragraph 1 of article 40 in the revised nine-Power amendment and on article 40 as proposed in the sub-amendment of France (see paragraphs 405 and 408 above). At its 1428th meeting the Committee voted on the remainder of the nine-Power proposal and other amendments thereto.

419. At the request of the representative of France, a roll-call vote was taken on article 40 as proposed in the amendment of France (see paragraph 405 above). This amendment was rejected by 44 votes to 14, with 31 abstentions. The voting was as follows:

In favour: Austria, Belgium, Chile, Denmark, Finland, France, Israel, Italy, Luxembourg, Madagascar, Norway, Paraguay, Sweden, Uruguay.

Against: Algeria, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Ceylon, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Cyprus, Czechoslovakia, Ethiopia, Guinea, Hungary, Iceland, Iran, Iraq, Ivory Coast, Kenya, Lebanon, Liberia, Malaysia, Mauritania, Mexico, Mongolia, Morocco, Nepal, Nigeria, Pakistan, Poland, Romania, Rwanda, Senegal, Sudan, Syria, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Upper Volta, Yugoslavia.

Abstaining: Afghanistan, Argentina, Australia, Bolivia, Brazil, Canada, Central African Republic, China, Colombia, Dominican Republic, Ecuador, Ghana, Greece, Guatemala, Guyana, Ireland, Jamaica, Japan, Netherlands, New Zealand, Panama, Philippines, Portugal, Saudi Arabia, Sierra Leone, Spain, Thailand, Togo, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Paragraph 1

420. At the 1420th meeting at the request of the representative of Iran, a roll-call vote was taken on the introductory part of paragraph 1 of article 40 as proposed in the revised nine-Power amendment (see paragraph 408 above). This text was adopted by 65 votes to none, with 23 abstentions. The voting was as follows:

In favour: Afghanistan, Algeria, Argentina, Australia, Bolivia, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Ceylon, China, Colombia, Congo (Brazzaville), Cuba, Cyprus, Czechoslovakia, Ecuador, Ethiopia, Ghana, Greece, Guatemala, Guinea, Guyana, Hungary, India, Iran, Iraq, Israel, Ivory Coast, Japan, Kenya, Lebanon, Liberia, Malaysia, Mauritania, Mexico, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Nigeria, Paraguay, Poland, Portugal, Romania, Senegal, Sierra Leone, Spain, Sudan, Syria, Thailand, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Upper Volta, Yugoslavia.

Against: None.

Abstaining: Austria, Belgium, Central African Republic, Chile, Congo (Democratic Republic of), Denmark, Dominican Republic, Finland, France, Ireland, Italy, Jamaica, Luxembourg, Madagascar, Norway, Panama, Philippines, Rwanda, Saudi Arabia, Sweden, Togo, Uruguay, Venezuela.

421. At its 1428th meeting, the Committee voted on the remainder of paragraph 1 of article 40 in the nine-Power proposal, which it had not voted on at the 1420th meeting (see paragraphs 418-420 above), and on the oral amendment thereto proposed by the representative of France (see paragraph 409 above). The voting was as follows.

422. Sub-paragraph 1(a) was adopted by 78 votes to none, with 4 abstentions.

423. Sub-paragraph 1(b) was adopted by 79 votes to none, with 4 abstentions.

424. At the request of the representative of Guinea a separate vote was taken on the second sentence of sub-paragraph 1(c). The sentence was retained by 64 votes to 9, with 7 abstentions. Sub-paragraph 1(c) as a whole was adopted by 76 votes to none, with 5 abstentions.

425. The new sub-paragraph orally proposed by the representative of France (see paragraph 409 above) was adopted by 71 votes to 2, with 6 abstentions.

426. Sub-paragraph 1(d) was adopted by 76 votes to none, with 5 abstentions.

427. Sub-paragraph 1(e) was adopted by 80 votes to none, with 2 abstentions.

428. Sub-paragraph 1(f) was adopted unanimously.

429. At the request of the representative of Italy a separate vote was taken on sub-paragraph 1(g)(ii). Sub-paragraph 1(g), up to (ii), was adopted by 77 votes to none, with 4 abstentions. Sub-paragraph 1(g)(ii) was adopted by 58 votes to none, with 24 abstentions. Sub-paragraph 1(g) as a whole was adopted by 75 votes to none, with 5 abstentions.

430. Paragraph 1, as a whole, as amended, was adopted by 77 votes to none, with 3 abstentions.

Paragraph 2

431. At the 1428th meeting the Committee voted on paragraph 2 of article 40 proposed by the nine Powers. At the request of the representatives of Chile, a separate roll-call vote was taken on the penultimate sentence of paragraph 2. The sentence was retained by 61 votes to 5, with 14 abstentions. The voting was as follows:

In favour: Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Ceylon, Cuba, Czechoslovakia, Denmark, Ethiopia, Finland, Ghana, Greece, Guinea, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Ivory Coast, Jamaica, Japan, Lebanon, Liberia, Libya, Malaysia, Mexico, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Panama, Peru, Poland, Portugal, Romania, Rwanda, Senegal, Sudan, Sweden, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia.

Against: Chile, China, Costa Rica, Uruguay, Venezuela.

Abstaining: Chad, Colombia, Congo (Democratic Republic of), Cyprus, Dominican Republic, Ecuador, France, Guatemala, Italy, Luxembourg, Madagascar, Philippines, Saudi Arabia, Spain.

432. At the request of the representative of Chile and the Ukrainian Soviet Socialist Republic, a separate vote was taken on the last sentence of paragraph 2. The sentence was retained by 57 votes to 9, with 13 abstentions.

433. The last two sentences of paragraph 2, together, were adopted by 53 votes to 4, with 20 abstentions.

434. Paragraph 2 as a whole was adopted by 62 votes to 2, with 13 abstentions.

Article 40 as a whole

435. Article 40 as a whole, as amended, was voted on at the 1428th meeting and was adopted by 72 votes to none, with 3 abstentions.

436. The text of article 40 of the draft Covenant on Civil and Political Rights, as adopted by the Third Committee, reads as follows:

"Article 40

"1. A State Party, under this article, may at any time declare that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling obligations under this Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party considers that another State Party is not giving effect to the provisions of this Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication, the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter.

(b) If the matter is not adjusted to the satisfaction of both Parties within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State.

(c) The Committee shall deal with a matter referred to it after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.

(d) The Committee shall hold closed meetings when examining communications under this article.

(e) Subject to the provisions of sub-paragraph (c) of paragraph 1 of this article, the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in this Covenant.

(f) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in sub-paragraph (b), to supply any relevant information.

(g) The States Parties concerned, referred to in sub-paragraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing.

(h) The Committee shall, within twelve months after the date of receipt of notice under sub-paragraph (b) of this paragraph, submit a report:

- (i) If a solution within the terms of sub-paragraph (e) of this paragraph is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached.
- (ii) If a solution is not reached, within the terms of sub-paragraph (e) of this paragraph, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter the report shall be communicated to the States Parties concerned.

"2. The provisions of this article shall come into force when ten States Parties to this Covenant have made such a declaration. A declaration under this article shall be deposited by the States Parties with the Secretary-General of the United Nations who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General of the United Nations unless the State Party concerned has made a new declaration."

Article 41

437. The text of article 41 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"Article 41

"Normally, the Committee shall deal with a matter referred to it only if available domestic remedies have been invoked and exhausted in the case. This shall not be the rule where the application of the remedies is unreasonably prolonged."

438. The Committee considered article 41 at its 1429th, 1430th and 1431st meetings.

Amendments

439. Amendments to article 41 were submitted by the Netherlands (A/C.3/L.1355, para. 2 and jointly by India, Iran, Libya, Nigeria, Pakistan, Senegal, Sudan, the United Arab Republic and Upper Volta (A/C.3/L.1379/Rev.1, para. 3).

440. The amendment submitted by the Netherlands was withdrawn at the 1428th meeting, the sponsor stating that the purpose thereof had been met by sub-paragraph 1 (c) of the text of article 40 which the Committee had adopted (see paragraph 436 above).

441. The nine-Power amendment proposed the replacement of article 41 by the following text:

"1. (a) If the matter is not settled to the satisfaction of the parties concerned in accordance with the provision of article 40, the Committee may appoint at the request of both the parties an ad hoc Conciliation Commission (hereinafter referred to as 'the Commission') comprising five persons. The members of the Commission should be appointed by agreement between the parties concerned. The good offices of the Commission shall be made available to the States concerned with a view to an amicable solution to the matter on the basis of respect for this Covenant;

(b) If both of the parties fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission concerning whom no agreement was reached shall be elected with the consent of the parties concerned, by secret ballot by a two-thirds majority vote of the Committee from among its members.

"2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the State concerned, of a State not party to this Covenant, nor of a State which has not made a declaration under article 40.

"3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

"4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at any other convenient place the Commission may determine in consultation with the Secretary-General.

"5. The Secretariat provided in accordance with article 36 of this Covenant shall also service the Commissions established under this article.

"6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon States concerned to supply any other relevant information.

"7. When the Commission has fully considered the matter it shall prepare and submit to the Chairman of the Committee, and in any event not later than twelve months after having been seized of the matter, a report embodying its findings on all questions of fact relevant to the issue between the Parties and containing such recommendations as it may consider proper for the amicable solution of the matter.

"8. The Chairman of the Committee shall communicate the report of the Commission to the States concerned. These States shall, within three months, inform the Chairman of the Committee whether or not they accept the recommendations contained in the report of the Commission.

"9. The provisions of this article are without prejudice to the responsibilities of the Committee under article 40 of this Covenant.

"10. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General.

"11. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties to the dispute in accordance with paragraph 10 of this article."

442. Amendments to the nine-Power amendments (A/C.3/L.1379/Rev.1, para. 3) were submitted by the United States of America (A/C.3/L.1391, para. 3), Chile and Ghana jointly (A/C.3/L.1397, para. 2) and Chile (A/C.3/L.1405, I). Oral amendments were submitted in the course of the debate by France (1430th meeting), Syria (1430th meeting) and Yugoslavia (1431st meeting).

443. The amendments of the United States of America proposed the following:

(a) To replace paragraphs 1 (a) and 1 (b) of the nine-Power text by the following:

"(a) If a matter referred to the Committee in accordance with article 40 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an ad hoc Conciliation Commission (hereinafter referred to as 'the Commission'). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution to the matter on the basis of respect for this Covenant;

"(b) The members of the Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission the members of the Commission concerning whom no agreement was reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members."

(b) In paragraph 2, to replace the second sentence by the following:

"They shall not be nationals of the States Parties concerned, nor of a State not party to this Covenant".

(c) In paragraph 4, to delete everything after "United Nations" and to insert the following new sentence:

"However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General";

(d) To replace paragraphs 7 and 8 by the following new paragraph:

"When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned.

(a) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter.

(b) If an amicable solution to the matter on the basis of respect for human rights as recognized in this Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached.

(c) If a solution within the terms of sub-paragraph (b) of this paragraph is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, and contain such recommendations as it may consider proper for the amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned.

(d) If the Commission's report is submitted under sub-paragraph (c) of this paragraph, the States Parties concerned shall, within three months of the receipt of the report, inform the Chairman of the Committee whether or not they accept the recommendations contained therein. After the period provided for in the preceding sentence, the Chairman of the Committee shall communicate the report of the Commission and the declarations of the States Parties concerned to the other States Parties to this Covenant and to the Secretary-General of the United Nations for publication."

(e) To delete paragraph 9 and renumber the subsequent paragraphs;

(f) To replace, in paragraph 11, the words "the States Parties to the the dispute" by "the States Parties concerned".

444. At the 1429th meeting the representative of the United States of America withdrew her amendments to paragraph 2 and paragraph 9 of the nine-Power proposal. At the 1431st meeting, she withdrew the last sentence of her amendment to paragraphs 7 and 8.

445. The amendment proposed jointly by Ghana and Chile (A/C.3/L.1397, para. 2) sought the insertion, after sub-paragraph 1 (b), of the following:

"(c) The Committee shall consider inadmissible any complaint which:

- (i) Is substantially the same as a matter which was previously examined by the Committee or has already been submitted to another procedure of international investigation or settlement and if it contains no relevant new information;
- (ii) It considers incompatible with the provisions of the present Covenant, manifestly ill-founded, or an abuse of the right of complaint;

"(d) The Committee shall reject any complaint referred to it which it considers inadmissible under article 41."

This amendment was withdrawn at the 1429th meeting.

446. The amendment proposed by Chile (A/C.3/L.1405) called for the replacement of the nine-Power text by the following:

"Article 41

"1. (a) If the matter is not settled by means of the procedure provided in article 40, the Committee shall invite the States concerned to appoint from among its own members an 'ad hoc conciliation sub-committee', hereinafter referred to as 'the Sub-Committee'. The Sub-Committee shall be composed of five members.

(b) If within three months the two States concerned have not reached agreement on all the members of the Sub-Committee, the Committee shall elect from among its members, by secret ballot and by a two-thirds majority vote, the members who have not yet been appointed.

"2. The members of the Sub-Committee may not be nationals of either of the States concerned. They shall serve in their personal capacity.

"3. The Sub-Committee shall elect its Chairman and adopt its own rules of procedure. It shall normally hold its meetings at the Headquarters of the United Nations, but it may also meet, as an exception, at any place it may determine in consultation with the Secretary-General. The secretariat of the Committee shall provide whatever services are required.

"4. The Sub-Committee shall carry out its work of conciliation between the States concerned, with a view to reaching an amicable settlement of the matter, based on respect for this Covenant.

"5. The Sub-Committee shall have at its disposal all the documentation assembled by the Committee and may call upon States concerned for any further information it may require.

"6. When the Sub-Committee has finished its work of conciliation and not later than one year from the time of beginning that work, it shall submit a report to the Committee:

(a) If the matter has been settled, the report shall be confined to a brief statement of the facts and of the settlement reached;

(b) If no settlement has been reached, the Sub-Committee shall set forth in its report the conclusions it has reached on the questions raised between the parties and the recommendations it considers appropriate for the amicable settlement of the matter.

"7. In the case referred to under (b) above, the Chairman of the Committee shall transmit the report of the Sub-Committee to the States concerned, which shall reply within three months stating whether or not they accept the recommendations. If either of the States concerned does not reply within this period, it will be understood that it rejects the recommendations.

"8. The States concerned shall share equally all the expenses which the conciliation efforts entail for the members of the Sub-Committee. To that end, the expenses shall be estimated by the Secretary-General, who shall be empowered to advance the necessary funds to pay them, if the continuance of the efforts so requires, and subsequently to claim reimbursement from the States concerned."

447. The oral amendments proposed by France sought the replacement, in paragraph 7 of the nine-Power proposal, of all the words after "between the Parties" by "and

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containing its views regarding the possibilities of an amicable solution of the matter"; and the replacement, in paragraph 8, of the words "the recommendations contained in the report" by "the contents of the report". The representative of France stated that these amendments to the nine-Power proposal would also apply to the corresponding parts of the United States sub-amendments (A/C.3/L.1391, para. 3 (d) (see paragraph 443 above)).

448. The oral sub-amendment moved by Syria proposed the insertion in paragraph 4 of the nine-Power amendment (see paragraph 441 above), after "United Nations", of the words "or at the United Nations Office at Geneva". This amendment was accepted by the sponsors of the nine-Power amendments.

449. The oral amendment of Yugoslavia sought the insertion, at the end of paragraph 4 of the nine-Power amendment (see paragraph 441 above), of the words "and the States Parties concerned". This proposal was also accepted by the sponsors of the nine-Power amendments.

450. At the 1430th meeting, in the light of the discussion, the sponsors of the nine-Power amendment (A/C.3/L.1379/Rev.1) submitted a revised text thereof (A/C.3/L.1379/Rev.1/Corr.2) with the following changes:

- (i) The words "comprising five persons", at the end of the first sentence of sub-paragraph 1 (a), were deleted;
- (ii) The second sentence of sub-paragraph 1 (a) was deleted;
- (iii) An introductory sentence was inserted at the beginning of sub-paragraph 1 (b), reading: "The Commission shall consist of five persons acceptable to the parties concerned";
- (iv) Paragraph 4 was redrafted to read as follows:

"The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General";
- (v) In paragraph 11, the words "the States Parties to the dispute" were replaced by "the States Parties concerned".

Issues discussed

451. The sponsors of the nine-Power amendments (see paragraph 441 above) explained that the purpose of the proposed article 41 was to provide a further and more effective method - namely, conciliation - for cases where the limited system of good offices envisaged in article 40 (see paragraph 436 above) might prove inadequate to resolve the disagreement.

452. Representatives supporting the alternative text proposed by Chile (see paragraph 446 above) contended that conciliation could only be effective if it was mandatory. The successive optional clauses provided for in the nine-Power amendments would destroy the conciliation system at its root, since they would make it possible for a State to frustrate the process at any juncture. Once a State had exercised its option in accepting the competence of the Human Rights Committee, it should be deemed to have accepted each further step in the procedure.

453. Speakers opposed to the Chilean text expressed the view that the notion of compulsory conciliation, besides being inconsistent with the principle of State sovereignty, was incompatible with Article 33 of the Charter, which provided that parties to any dispute should seek a peaceful solution of their own choice. Moreover, the Chilean proposal was unrealistic, since the solution of matters arising out of the Covenant must essentially depend on the goodwill and co-operation of the States concerned.

454. As regards sub-paragraph 1 (a) of the nine-Power proposal, several speakers thought that it would be preferable to accept the United States amendment (see paragraph 443 above) which authorized the Human Rights Committee to appoint the Conciliation Commission with the prior consent of the States Parties concerned. In their view, the Committee, if it were denied this right of initiative, might be reduced to impotence. Other representatives, however, felt that the first initiative should come from the States Parties concerned, as envisaged in the nine-Power proposal, since those States alone could decide whether the procedure might produce something permanent.

455. Again, with reference to sub-paragraph 1 (b), many speakers said that, in the event of disagreement between the parties concerned as to the composition

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of the Conciliation Commission, the Commission could only be composed of persons whose election had been approved by both the States Parties. A provision to that effect, as in the nine-Power proposal, would ensure that each State could place its full confidence in the Commission.

456. Other representatives, preferring the text of sub-paragraph 1 (b) proposed by the United States (see paragraph 443 above) thought that, in the event of disagreement, the Committee should be free to proceed to the election of the necessary members without again having to seek the consent of the States Parties.

457. As to paragraph 2, it was widely agreed that no person should be a member of the Commission if he was a national of a State Party concerned, of a State not party to the Covenant, or of a State which had not made a declaration under article 40. Certain representatives, however, felt that such a provision would be unduly restrictive.

Adoption of article 41

458. At its 1431st meeting, the Committee voted on the text of article 41 contained in the revised nine-Power amendments (A/C.3/L.1379/Rev.1/Corr.2) and on the amendments thereto.

459. The text of article 41 proposed in the amendment of Chile (see paragraph 446 above) was rejected in a roll-call vote requested by the representative of Venezuela by 45 votes to 22, with 26 abstentions. The voting was as follows:

In favour: Austria, Belgium, Canada, Chile, Costa Rica, Denmark, Dominican Republic, Ecuador, Finland, Israel, Jamaica, Luxembourg, Netherlands, Nicaragua, Norway, Panama, Peru, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

Against: Algeria, Bulgaria, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Cuba, Czechoslovakia, Dahomey, Ethiopia, Guinea, Hungary, India, Indonesia, Iran, Iraq, Ivory Coast, Jordan, Kenya, Kuwait, Lebanon, Libya, Malawi, Malaysia, Mali, Mongolia, Morocco, Nigeria, Pakistan, Poland, Romania, Saudi Arabia, Senegal, Sierra Leone, Sudan, Syria, Togo, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Yugoslavia, Zambia.

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Abstaining: Afghanistan, Argentina, Australia, Brazil, Ceylon, Chad, China, Colombia, Cyprus, France, Ghana, Greece, Guatemala, Guyana, Ireland, Italy, Japan, Liberia, Madagascar, Mexico, New Zealand, Philippines, Portugal, Thailand, Trinidad and Tobago, United States of America.

460. The amendment of the United States of America to sub-paragraph 1 (a) (see paragraph 443 above) was adopted in a roll-call vote requested by the representative of the United Kingdom by 42 votes to 32, with 19 abstentions. The voting was as follows:

In favour: Argentina, Australia, Austria, Belgium, Canada, Ceylon, China, Colombia, Cyprus, Denmark, Dominican Republic, Finland, France, Ghana, Greece, Guatemala, Ireland, Israel, Italy, Jamaica, Japan, Lebanon, Luxembourg, Madagascar, Malaysia, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Peru, Philippines, Portugal, Sierra Leone, Sweden, Thailand, Trinidad and Tobago, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Algeria, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Ethiopia, Guinea, Hungary, India, Iran, Iraq, Ivory Coast, Jordan, Kenya, Libya, Mali, Mongolia, Morocco, Pakistan, Poland, Romania, Saudi Arabia, Senegal, Sudan, Syria, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Yugoslavia, Zambia.

Abstaining: Afghanistan, Brazil, Cameroon, Central African Republic, Chad, Chile, Costa Rica, Dahomey, Ecuador, Guyana, Indonesia, Kuwait, Liberia, Malawi, Nigeria, Spain, Togo, Uruguay, Venezuela.

461. The amendment of the United States of America to paragraph 1 (b) (see paragraph 443 above) was adopted by 41 votes to 36, with 16 abstentions. At the request of the representative of Canada the vote was taken by roll-call. The voting was as follows:

In favour: Argentina, Australia, Austria, Belgium, Canada, Chile, China, Colombia, Costa Rica, Denmark, Dominican Republic, Ecuador, Finland, France, Ghana, Greece, Guatemala, Ireland, Israel, Italy, Jamaica, Liberia, Luxembourg, Madagascar, Malaysia, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Peru, Philippines, Portugal, Spain, Sweden, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

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Against: Algeria, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Ethiopia, Guinea, Hungary, India, Indonesia, Iran, Iraq, Jordan, Kenya, Kuwait, Lebanon, Libya, Mali, Mongolia, Morocco, Pakistan, Poland, Romania, Saudi Arabia, Senegal, Sudan, Syria, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Yugoslavia, Zambia.

Abstaining: Afghanistan, Brazil, Cameroon, Central African Republic, Ceylon, Chad, Cyprus, Dahomey, Guyana, Ivory Coast, Japan, Malawi, Nigeria, Sierra Leone, Thailand, Togo.

462. Paragraph 1, as amended, was adopted by 53 votes to 13, with 27 abstentions.

463. Paragraph 2 (see paragraph 441 above) was adopted by 86 votes to none, with 5 abstentions.

464. Paragraph 3 (see paragraph 441 above) was adopted by 89 votes to none, with 3 abstentions.

465. Paragraph 4 (see paragraph 441 above), as orally amended (see paragraphs 443 and 448 above), was adopted by 86 votes to none, with 3 abstentions.

466. Paragraph 5 (see paragraph 441 above) was adopted by 86 votes to none, with 5 abstentions.

467. Paragraph 6 (see paragraph 441 above) was adopted by 87 votes to none, with 4 abstentions.

468. The two oral amendments proposed by France (see paragraph 447 above) to paragraphs 7 and 8 or to the corresponding parts of the amendments of the United States of America (A/C.3/L.1391, para. 3 (d)), as the case might be, was adopted by 50 votes to 22, with 18 abstentions. The sub-amendment of the United States of America to paragraphs 7 and 8 (see paragraph 443 above), as amended, was adopted by 41 votes to 39, with 10 abstentions.

469. Paragraph 9 (see paragraph 441 above) was adopted by 81 votes to none, with 10 abstentions.

470. Paragraph 10 (see paragraph 441 above) was adopted by 77 votes to none, with 10 abstentions.

471. Paragraph 11 (see paragraph 441 above) was adopted by 77 votes to none, with 12 abstentions.

472. Article 41 as a whole, as amended, was adopted by 80 votes to none, with 12 abstentions.

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473. The text of article 41 of the draft Covenant on Civil and Political Rights, as adopted by the Third Committee, reads as follows:

"Article 41

"1. (a) If a matter referred to the Committee in accordance with article 40 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an ad hoc Conciliation Commission (hereinafter referred to as 'the Commission'). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution to the matter on the basis of respect for this Covenant;

(b) The members of the Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission the members of the Commission concerning whom no agreement was reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.

"2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, of a State not party to this Covenant, nor of a State Party which has not made a declaration under article 40.

"3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

"4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General and the States Parties concerned.

"5. The secretariat provided in accordance with article 36 of this Covenant shall also service the Commissions established under this article.

"6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon States Parties concerned to supply any other relevant information.

"7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned.

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(a) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter.

(b) If an amicable solution to the matter on the basis of respect for human rights as recognized in this Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached.

(c) If a solution within the terms of sub-paragraph (b) of this paragraph is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, as well as its views on the possibilities of amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned.

(d) If the Commission's report is submitted under sub-paragraph (c) of this paragraph, the States Parties concerned shall, within three months of the receipt of the report, inform the Chairman of the Committee whether or not they accept the contents of the report of the Commission.

"8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 40 of this Covenant.

"9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General.

"10. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned in accordance with paragraph 9 of this article."

Article 41 bis

474. An amendment of the representative of the Netherlands (A/C.3/L.1355, para. 3) proposed the insertion in the Covenant of an article on the right of individual petition, worded as follows:

"1. The Committee may receive petitions from individuals or groups of individuals claiming to be the victim of a violation of the rights set forth in this covenant by any State party, provided that the State party complained of had declared that it recognizes the competence of the Committee to receive such petitions.

"2. The declaration of a State party mentioned in the preceding paragraph may be made in general terms, or for a particular case or for a specific period, and shall be deposited with the Secretary-General who shall transmit copies thereof to the other States parties.

"3. The Committee shall consider inadmissible any petition under this article which:

- (a) Is anonymous;
- (b) Is substantially the same as a matter which was previously examined by the Committee or has already been submitted to another procedure of international investigation or settlement and if it contains no relevant new information;
- (c) It considers incompatible with the provisions of the present Covenant, manifestly ill-founded, or an abuse of the right of petition.

"4. The Committee shall reject any petition referred to it which it considers inadmissible under article 41."

475. An amendment to the amendment of the Netherlands was submitted by the representative of Jamaica (A/C.3/L.1389). This amendment sought the following:

- (a) The deletion, in paragraph 1, of all the words after "any State Party";
- (b) The deletion of paragraph 2 and the renumbering of the following paragraphs accordingly.

476. A further amendment to the amendment of the Netherlands was submitted by the representative of France (A/C.3/L.1394), calling for the replacement of the Netherlands text by the following:

"1. The Committee shall have the right, in the circumstances specified hereunder, to receive written communications from individuals or groups of individuals alleging non-application of the provisions of this Covenant by a State party to it.

"2. Communications from individuals or groups of individuals belonging to the following categories shall be admissible:
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"3. The Committee shall transmit the text of each communication to the Government of the State party concerned, which shall lodge its reply with the Committee within three months after the receipt of the communication.

"4. The Committee shall confine itself to taking note of the written communication and reply, which shall remain confidential."

477. The amendments of the Netherlands (A/C.3/L.1355), Jamaica (A/C.3/L.1389) and France (A/C.3/L.1394) were withdrawn at the 1432nd meeting in favour of a revised amendment submitted jointly by Canada, Colombia, Costa Rica, Ghana, Jamaica, the Netherlands, Nigeria, Pakistan, the Phillipines and Uruguay (A/C.3/L.1402/Rev.2), which proposed the insertion of an article 41 bis reading as follows:

"Article 41 bis

"1. A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals, subject to its jurisdiction, claiming to be victims of a violation by that State Party of any of the rights set forth in this Covenant. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

"2. A declaration made in accordance with paragraph 1 of this article shall be deposited by the State Party concerned with the Secretary-General of the United Nations who shall transmit copies thereof to the other States Parties. The provision of this article shall come into force when ten States Parties have made such a declaration. A declaration may be withdrawn at any time by notification to the Secretary-General, but such withdrawal shall not affect communications pending before the Committee.

"3. Individuals claiming that any of their rights enumerated in this Covenant have been violated and who have exhausted all available domestic remedies, may submit a written communication to the Committee for consideration.

"4. The Committee shall consider inadmissible any communication under this article which:

- (i) Is anonymous;
- (ii) Is an abuse of the right of submitting such communications;
- (iii) It considers incompatible with the provisions of this Covenant.

"5. (a) Subject to the provisions of the preceding paragraph, the Committee shall confidentially bring any communication submitted to it to the attention of the State Party alleged to be violating any provision of this Covenant.

(b) Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

"6. (a) The Committee shall consider communications in the light of all information made available to it by the individual and by the State Party concerned. The Committee shall not consider any communication from an individual unless it has ascertained that:

- (i) the same matter has not already been submitted to another procedure of international investigation or settlement;
- (ii) the individual has exhausted all available domestic remedies. This shall not be the rule where the application of the remedies is unreasonably prolonged.

(b) The Committee shall hold closed meetings when examining communications under this article.

(c) The Committee shall forward its suggestions, if any, to the State Party concerned and to the individual.

"7. The Committee shall include in its annual report under article 45 a summary of such communications and, where appropriate, a summary of the explanations and statements of the States Parties concerned and of its own suggestions.

"8. Pending the achievement of the objectives of General Assembly resolution 1514 (XV) of 14 December 1960 concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, the provisions of this article shall in no way limit the right of petition granted to these peoples by the Charter of the United Nations and other international Conventions and instruments under the United Nations and its specialized agencies."

478. The Committee considered this text at its 1438th to 1440th meetings.

Issues discussed

479. Representatives favouring the notion of including in the draft Covenant an article on the right of individual communication stressed that, as the basic purpose of the draft Covenant was to safeguard the rights of individual human beings, there was undeniable need to include, in the body of the instrument, a

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provision permitting private persons to seek redress of wrongs before an international organ. Precedents for such a provision were many, the most recent being the petitions procedure under the European Convention for the Protection of Human Rights and Fundamental Freedoms and article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination.

480. It was also contended, in support of the proposed article 41 bis, that the provision in no way infringed the principle of State sovereignty, as its acceptance would be purely voluntary. This argument, however, evoked the reply that the principle of sovereignty would indeed be seriously compromised if an individual were permitted to challenge before an international body the rulings of the highest judicial organs of his State of nationality or residence.

Moreover, the adoption of article 41 bis might lead certain States to incite individuals to make allegations against other States, thus endangering international relations. Special stress was laid, in this connexion, on the potential danger of propaganda by exile groups.

481. Some speakers opposed to the right of individual communication under the draft Covenant maintained, furthermore, that the proposed article 41 bis started from the false premise that an individual could be the subject of international law; in reality, individuals acquired rights or assumed duties in the international sphere only through the State. Others, however, felt that recent conventional provisions vesting in the individual the right of direct recourse to an international body had greatly transformed some formerly accepted principles.

482. In the view of several representatives, the proposed article 41 bis was unexceptionable because, in addition to being optional, it contained other valuable safeguards: local remedies had to be exhausted; other relevant procedures of settlement must be respected; communications must be in writing; the Human Rights Committee would exclude inappropriate communications; and the meetings must be closed. Others felt that the supposed safeguards would be of doubtful value, particularly since there were no known criteria for determining, under article 4 (ii), what was an abuse of the right to submit a communication, while the provision in article 7, that the Committee would summarize the communications in its annual report, seemed to make undesirable publicity certain.

483. The most dangerous features of the article, in the view of many speakers, was that its inclusion might limit ratifications to the extent that the Covenant would not enter into force. Those advocating the adoption of the article thought this line of reasoning faulty, and again pointed to the optional nature of the suggested procedure; this right of option on the part of the State should, in their view, allay the fears of States that felt unable to accept the article.

484. The discussion centred largely on the question whether the ideas contained in article 41 bis should be embodied in the draft Covenant itself or be set forth in a separate protocol annexed thereto. Those favouring the inclusion of the article in the draft Covenant stressed that a separate protocol would disturb the organic unity of the instrument. Others held that, despite the fact that the difference between an optional article and a separate protocol was legally unimportant, the very presence of such a provision in the Covenant itself might make it impossible, on grounds of principle, for many States to become parties.

Decision on the article

485. At the 1440th meeting, the representative of Lebanon proposed that the substance of article 41 bis be included in a separate protocol annexed to the draft Covenant. This proposal was adopted in a roll-call vote requested by the representative of Nigeria by 41 votes to 39, with 16 abstentions. The voting was as follows:

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

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

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

Article 41 ter

486. At the 1432nd meeting (see paras. 316-317 above), the representative of the United Kingdom of Great Britain and Northern Ireland submitted a proposal (A/C.3/L.1356/Rev.1, para. 2) for the insertion, in the appropriate place, of an article reading as follows:

"1. The members of the Committee shall, while exercising their functions and during their journeys to and from their place of meeting, enjoy the following privileges and immunities:

(a) Immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and of acts done by them in their official capacity, immunity from legal process of every kind; this immunity shall not, however, apply in the case of a motor traffic offence committed by a member of the Committee, nor in the case of damages caused by a motor vehicle belonging to or driven by him;

(b) Inviolability for all papers and documents;

(c) Exemption in respect of themselves and their spouses from immigration restrictions or aliens registration in the State which they are visiting or through which they are passing in the exercise of their functions.

"2. No administrative or other restrictions shall be imposed on the free movement of members of the Committee to and from the place of meeting of the Committee.

"3. Members of the Committee shall, in the matter of customs and exchange control, be accorded:

(a) By their own Government, the same facilities as those accorded to senior officials travelling abroad on temporary official duty;

(b) By the Governments of other States Parties, the same facilities as those accorded to representatives of foreign Governments on temporary official duty.

"4. In order to secure for members of the Committee complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and of acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.

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"5. Privileges and immunities are accorded to the members of the Committee, not for personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions. The Committee alone shall be competent to waive the immunity of its members; it has not only the right, but is under a duty to waive the immunity of one of its members in any case where, in its opinion, the immunity would impede the course of justice, and where it could be waived without prejudice to the purpose for which the immunity is accorded."

487. This proposal was considered by the Committee at its 1435th, 1436th and 1437th meetings.

488. At the 1436th meeting, after hearing the advice of the Legal Counsel, the representative of the United Kingdom of Great Britain and Northern Ireland submitted a revised text (A/C.3/L.1356/Rev.1/Corr.1) of her proposal, reading as follows:

"The members of the Committee referred to in article 27 and following articles and of the ad hoc conciliation commissions which may be set up under article 41 of this Covenant, shall be entitled in the exercise of their functions to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations."

Issues discussed

489. In reply to questions, the Legal Counsel advised the Committee that, since it might possibly be argued in the future that the Human Rights Committee would legally not be a subsidiary organ of the United Nations, the Covenant should preferably contain a specific provision on the privileges and immunities of its members. The revised proposal of the United Kingdom would protect a member of the Committee from vexation while exercising his functions and, subsequently, in respect of any act done by him in his official capacity while a member.

Adoption of the article

490. At its 1437th meeting the Committee voted on the revised proposal of the United Kingdom (see para. 488 above).

491. This proposal was adopted by 77 votes to none, with 2 abstentions.

492. The text of the article on privileges and immunities, provisionally numbered 41 ter, reads as follows:

"Article 41 ter

"The members of the Committee referred to in article 27 and following articles and of the ad hoc conciliation commissions which may be set up under article 41 of this Covenant, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations."

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Article 42

493. The text of article 42 of the draft Covenant on Civil and Political Rights, as proposed by the Commission on Human Rights (A/6342, annex II B), read as follows:

"Article 42

"In any matter referred to it the Committee may call upon the States concerned to supply any relevant information."

494. This article was considered by the Committee at its 1432nd meeting.

Amendment

495. The representatives of India, Iran, Libya, Nigeria, Pakistan, Senegal, Sudan, United Arab Republic and Upper Volta submitted an amendment (A/C.3/L.1379/Rev.1, para. 4) calling for the deletion of article 42, the text of which had already been adopted as article 40 (1) (d).

Deletion of the article

496. At its 1432nd meeting the Committee voted on the nine-Power amendment to article 42 (see para. 495 above).

497. The amendment was adopted unanimously. Article 42 was deleted.

Article 43

498. The text of article 43 of the draft Covenant on Civil and Political Rights, as proposed by the Commission on Human Rights (A/6342, annex II B), read as follows:

"Article 43

"1. Subject to the provisions of article 41, the Committee shall ascertain the facts and make available its good offices to the States concerned with a view to a friendly solution of the matter on the basis of respect for human rights as recognized in this Covenant.

"2. The Committee shall in every case, and in no event later than eighteen months after the date of receipt of the notice under article 40, draw up a report which will be sent to the States concerned and then communicated to the Secretary-General of the United Nations for publication.

"3. If a solution within the terms of paragraph 1 of this article is reached the Committee shall confine its report to a brief statement of the facts and of the solution reached. If such a solution is not reached the Committee shall draw up a report on the facts and state its opinion as to whether the facts found disclose a breach by the State concerned of its obligations under the Covenant. If the report does not represent in whole or in part the unanimous opinion of the members of the Committee, any member of the Committee shall be entitled to attach to it a separate opinion. The written and oral submissions made by the Parties to the case in accordance with article 39, paragraph 2 (c), shall be attached to the report."

499. This article was considered by the Committee at its 1432nd meeting.

Amendment

500. The representative of India, Iran, Libya, Nigeria, Pakistan, Senegal, Sudan, United Arab Republic and Upper Volta submitted an amendment (A/C.3/L.1379/Rev.1, para. 5) calling for the deletion of article 43, which had been rendered unnecessary by the Committee's decision to establish a body of a different character and with different functions.

Deletion of the article

501. At its 1432nd meeting the Committee voted on the nine-Power amendment to article 43 (see para. 500 above).

502. The amendment was adopted by 76 votes to none, with 1 abstention. Article 43 was deleted.

Article 43 bis

503. The representative of the United Kingdom of Great Britain and Northern Ireland submitted a revised amendment (A/C.3/L.1356/Rev.1, para. 3) which proposed the insertion between articles 43 and 44 of a new article reading as follows:

"The Committee shall deal with any matter referred to it under article 40, but it shall take no action with regard to any matter:

(a) For which any organ or specialized agency of the United Nations competent to do so has established a special procedure by which the States concerned are governed;

(b) With which the International Court of Justice is already seized."

This amendment was withdrawn at the 1434th meeting.

Article 43 ter

504. The representative of France submitted an amendment calling for the insertion after article 43 of a new article (A/C.3/L.1395) provisionally numbered 43 ter, reading as follows:

"Article 43 ter

"The provisions for the implementation of this Covenant shall apply without prejudice to the procedures prescribed in the matter of human rights by the individual conventions of the United Nations or the specialized agencies or by any other general or special international agreement to which some of the States acceding to the present Covenant may be parties."

505. The representatives of Canada, Ceylon, Chile, Denmark, Ghana and New Zealand submitted an amendment (A/C.3/L.1396) calling for the insertion after article 43 of an article on the same subject reading as follows:

"1. The provisions of this part of this Covenant shall be applied without prejudice to those procedures in the field of human rights laid down in the constituent instruments of, or in conventions adopted by, the United Nations and its specialized agencies, and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force.

"2. The Committee shall take no action with regard to any matter in respect of which any of the procedures referred to in paragraph 1 of this article has been invoked."

506. These two amendments were withdrawn at the 1432nd meeting in favour of a proposal (A/C.3/L.1399) submitted jointly by Canada, Ceylon, Chile, Denmark, France, Ghana and New Zealand. The proposed new text of article 43 ter read as follows:

"Article 43 ter

"1. The provisions for the implementation of this Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by the constituent instruments and the conventions of the United Nations and of the specialized agencies or by any other general or special international agreement to which any of the States adhering to the present Covenant may be parties.

"2. The Committee shall take no action under articles.....
of this Covenant with regard to any matter in respect of which any of the
procedures referred to in paragraph 1 of this article has been invoked."

507. At the 1433rd meeting the sponsors of the seven-Power proposal submitted a revised version of their text (A/C.3/L.1399/Rev.1), reading as follows:

"Article 43 ter

"The provisions for the implementation of this Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them."

508. The Committee considered article 43 ter at its 1432nd, 1433rd and 1434th meetings.

Issues discussed

509. Representatives supporting the seven-Power proposal (see para. 506 above) said that the purpose of the new article, based on article 16 of the International Convention on the Elimination of All Forms of Racial Discrimination, was to establish a simple rule for the prevention of conflicts of competence between the implementation machinery established by the Covenant and that available under other international instruments. The Covenant was general in its coverage and its implementation procedures should not normally come into play where another procedure, available to the States parties concerned under a general or special agreement to which they were also parties, was more specifically adapted to provide a solution of the matter in issue.

510. Other speakers felt that the nine-Power proposal (see para. 506 above) tended to subordinate the procedures created by the Covenant, which were intended to be the principal ones on civil and political rights in the world community, to those prescribed by conventions of the specialized agencies and by regional arrangements. Adoption of the proposal would thus weaken the Human Rights Committee at the outset and - with the list of conventions on various specific aspects of human rights becoming constantly longer - would soon render its existence meaningless.

511. Several representatives thought that paragraph 1 of the nine-Power proposal might somehow be combined with article 50 (A/6342, annex II B), which already stated that nothing in the Covenant could impair the provisions of the Charter and of the constitution of the specialized agencies. The prevailing view, however, was that article 50 was a provision of a general nature, and that the Covenant should also contain a specific provision which would safeguard, not only the Charter and the constitutions of the specialized agencies, but in addition the conventions concluded within the United Nations family or on a regional basis.

Adoption of the article

512. At its 1434th meeting the Committee voted on the revised seven-Power proposal for article 43 ter (see para. 507 above).

513. At the request of the representative of the Ukrainian Soviet Socialist Republic, a separate vote was taken on the words "and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them". The words were retained by 44 votes to 29, with 12 abstentions.

514. Article 43 ter was adopted by 49 votes to 20, with 16 abstentions.

515. The text of article 43 ter as adopted by the Third Committee reads as follows:

"The provisions for the implementation of this Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them."

Article 44

516. The text of article 44 of the Covenant on Civil and Political Rights, as proposed by the Commission on Human Rights (A/6342, annex II B), read as follows:

"Article 44

"The Committee may recommend to the Economic and Social Council that the Council request the International Court of Justice to give an advisory opinion on any legal question connected with a matter of which the Committee is seized."

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517. The Committee considered this article at its 1434th and 1435th meetings.

Amendment

518. The representatives of India, Iran, Libya, Nigeria, Pakistan, Senegal, Sudan, United Arab Republic and Upper Volta submitted an amendment (A/C.3/L.1379/Rev.1, para. 6) calling for the deletion of article 44.

Issues discussed

519. Speakers advocating the retention of article 44 thought that the rational progress of the Committee's work might at times require outside legal guidance on certain points. The Committee might, for example, wish advice on matters such as the interpretation of the Covenant, its own competence in a given matter, or whether legal remedies had been exhausted. It was emphasized, in this connexion, that the advisory function of the International Court of Justice was distinct from its contentious function, the former having no legally binding effect.

520. Others, however, contended that article 44, if adopted, would introduce into the Covenant a strong element of compulsion, by giving the International Court of Justice a measure of mandatory jurisdiction over the States Parties. An advisory opinion might not be legally binding, but its persuasive force might be deemed almost as strong as that of a judgement. Moreover, if the Third Committee were to adopt an article on the right of individual petition, article 44 would give the International Court a right to adjudicate on a complaint by an individual against his State of nationality, which would be an unprecedented departure from the accepted rules of international law.

521. In reply to questions, it was stated on behalf of the Legal Counsel that the General Assembly, by its resolution 39 (I) had authorized the Economic and Social Council to seek advisory opinions from the International Court on legal questions arising within the scope of the Council's activities. Article 44 would thus not be at variance with Article 96 of the Charter; nor would the article be inconsistent with Article 36 of the Statute of the International Court, which did not apply to advisory opinions requested by United Nations organs.

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Deletion of the article

522. At its 1435th meeting, the Committee voted on the nine-Power amendment (see para. 518 above) calling for the deletion of article 44.

523. At the request of the representative of the United Arab Republic, the vote was taken by roll-call. The Committee decided to delete the article by 51 votes to 32, with 7 abstentions. The voting was as follows:

In favour: Algeria, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Central African Republic, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Cyprus, Czechoslovakia, Dahomey, Ethiopia, Gabon, Ghana, Guinea, Hungary, India, Indonesia, Iran, Iraq, Ivory Coast, Kenya, Kuwait, Lebanon, Liberia, Libya, Malawi, Mauritania, Mongolia, Morocco, Nigeria, Pakistan, Poland, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Sudan, Syria, Thailand, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Upper Volta, Yugoslavia, Zambia.

Against: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Denmark, Ecuador, Finland, France, Greece, Guatemala, Ireland, Israel, Italy, Jamaica, Mexico, Netherlands, Nicaragua, Norway, Philippines, Portugal, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Abstaining: Afghanistan, Ceylon, China, Japan, Madagascar, Malaysia, Turkey.

Article 45

524. The text of article 45 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"Article 45

"The Committee shall submit to the General Assembly, through the Secretary-General of the United Nations, an annual report on its activities."

525. The Committee considered this article at its 1425th meeting.

Amendment

526. The representatives of India, Iran, Libya, Nigeria, Pakistan, Senegal, Sudan, United Arab Republic and Upper Volta submitted an amendment (A/C.3/L.1379/Rev.1, para.7) calling for the replacement of the text of article 45 by the following:

"The Committee shall submit to the General Assembly, through the Economic and Social Council, an annual report on its activities."

Adoption of the article

527. At its 1435th meeting the Committee voted on the nine-Power amendment to article 45 (see para. 526 above).

528. This amendment was adopted by 81 votes to none, with 1 abstention.

529. The text of article 45, as adopted by the Third Committee, appears in paragraph 526 above.

Article 46

530. The text of article 46 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"Article 46

"The States Parties to this Covenant agree that any State Party complained of or lodging a complaint may, if no solution has been reached within the terms of article 43, paragraph 1, bring the case before the International Court of Justice after the report provided for in article 43, paragraph 3, has been drawn up."

531. The Committee considered this article at its 1435th meeting.

Amendments

532. The representatives of India, Iran, Libya, Nigeria, Pakistan, Senegal, Sudan, United Arab Republic and Upper Volta submitted an amendment (A/C.3/L.1379/Rev.1, para. 8) calling for the deletion of article 46.

533. The representative of Chile submitted an amendment (A/C.3/L.1405, part II) to the nine-Power amendment, proposing that, subject to drafting changes designed to bring it into line with articles already adopted, article 46 be worded as follows:

"Article 46

"If the recommendations of the Sub-Committee are not accepted by one of the States concerned within the three months prescribed under article 41 (7), and if the States do not submit the matter to arbitration within the following three months, either of the States may have recourse to the International Court of Justice for the settlement of the dispute."

This amendment was withdrawn at the 1435th meeting.

Deletion of article 46

534. At its 1435th meeting the Committee voted on the nine-Power amendment calling for the deletion of article 46.

535. This amendment was adopted by 63 votes to 10, with 7 abstentions. Article 46 was deleted.

Article 47

536. The text of article 47 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"Article 47

"The provisions of this Covenant shall not prevent the States Parties to the Covenant from submitting to the International Court of Justice any dispute arising out of the interpretation or application of the Covenant in a matter within the competence of the Committee."

537. The Committee considered this article at its 1435th meeting.

Amendment

538. The representatives of India, Iran, Libya, Nigeria, Pakistan, Senegal, Sudan, United Arab Republic and Upper Volta submitted an amendment (A/C.3/L.1379/Rev.1, para.9) calling for the deletion of article 47, which they considered superfluous by virtue of the fact that article 43 ter (see para. 575 above) already established the principle that parties could have recourse to any available procedure they wished.

Deletion of article 47

539. At its 1435th meeting the Committee voted on the nine-Power amendment calling for the deletion of article 47.

540. This amendment was adopted by 49 votes to 14, with 12 abstentions. Article 47 was deleted.

Article 48

541. The text of article 48 of the Draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"Article 48

"1. The States Parties to this Covenant, including those who are responsible for the administration of any Non-Self-Governing Territory, undertake to submit reports annually to the Committee on the measures taken by them to meet the obligations set forth in article 1 of this Covenant.

"2. The States Parties to this Covenant who are responsible for the administration of any Non-Self-Governing Territory, undertake, through elections, plebiscites or other recognized democratic means, preferably under the auspices of the United Nations, to determine the political status of such territory, should the Committee make a proposal to that effect and such proposal be adopted by the General Assembly. Such decision shall be based on evidence of the desire of the inhabitants of such territory as expressed through their political institutions or parties.

"3. The States Parties to this Covenant shall report to the Committee any violation of the right laid down in paragraph 3 of article 1."

542. The Committee considered this article at its 1435th meeting.

Amendment

543. The representatives of India, Iran, Libya, Nigeria, Pakistan, Senegal, Sudan, the United Arab Republic and Upper Volta submitted an amendment (A/C.3/L.1379/Rev.1, para.10) calling for the deletion of article 48, on the grounds that the question of Non-Self-Governing Territories was dealt with by special organs and that the Covenant should make no distinction between citizens of a sovereign State and persons still awaiting their independence.

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Deletion of article 48

544. At its 1435th meeting the Committee voted on the nine-Power amendment calling for the deletion of article 48.

545. This amendment was adopted by 76 votes to none, with 1 abstention. Article 48 was deleted.

Article 49

546. The text of article 49 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"Article 49

"1. The States Parties to this Covenant undertake to submit a report on the legislative or other measures, including judicial remedies, which they have adopted and which give effect to the rights recognized herein (a) within one year of the entry into force of the Covenant for the State concerned and (b) thereafter whenever the Economic and Social Council so requests upon recommendation of the Commission on Human Rights and after consultation with the States Parties.

"2. Reports shall indicate factors and difficulties, if any, affecting the progressive implementation of article 22, paragraph 4, of this Covenant.

"3. All reports shall be submitted to the Secretary-General of the United Nations for the Economic and Social Council which may transmit them to the Commission on Human Rights for information, study and, if necessary, general recommendations.

"4. The specialized agencies shall receive such parts of the reports concerning the rights as fall within their respective fields of activity.

"5. The States Parties directly concerned and the above agencies may submit to the Economic and Social Council observations on any general recommendation that may be made in accordance with paragraph 3 of this article."

547. This article was considered by the Committee at its 1435th meeting.

Amendment

548. The representatives of India, Iran, Libya, Nigeria, Pakistan, Senegal, Sudan, the United Arab Republic and Upper Volta submitted an amendment (A/C.3/L.1379/Rev.1, para. 11) calling for the deletion of article 49, the substance of which was already covered by article 39 bis (see para. 397 above).

Deletion of article 49

549. At its 1435th meeting the Committee voted on the nine-Power amendment calling for the deletion of article 49.

550. This amendment was adopted by 79 votes to 1. Article 49 was deleted.

Article 50

551. The text of article 50 of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) read as follows:

"Article 50

"Nothing in this Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies, which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in this Covenant."

Adoption of the article

552. This article was adopted by the Committee, at its 1435th meeting, by 76 votes to none, with 1 abstention.

Article 50 bis

553. The representatives of Afghanistan, Algeria, Chile, Ecuador, Ghana, Guatemala, Guinea, India, Iran, Iraq, Libya, Mongolia, Nepal, Nigeria, Morocco, Pakistan, Panama, Sudan, Syria, the United Arab Republic, the United Republic of Tanzania, Venezuela and Yugoslavia submitted a proposal (A/C.3/L.1381 and Add.1 and 2) for the insertion after article 50 of an article, identical with article 25 bis of the draft Covenant on Economic, Social and Cultural Rights (see para. 101 above), reading as follows:

"Nothing in this Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources."

554. The Committee considered this article at its 1435th and 1436th meetings.

Adoption of the article

555. At its 1436th meeting the Committee voted on the twenty-three-Power proposal for article 50 bis.

556. The proposal was adopted by 50 votes to 2, with 17 abstentions. The text of article 50 bis appears in paragraph 553 above.

Article 50 ter

557. At the 1436th meeting, the representative of Jamaica submitted a proposal (A/C.3/L.1407) for the insertion, after article 50, of a new independent article, which would constitute a separate part of the Covenant. The text of the article read as follows:

"Article

"1. Each State Party undertakes to establish or designate in accordance with its constitutional processes a National Commission on Human Rights or another appropriate institution which shall perform throughout the territories under its jurisdiction the functions set out in this article:

(a) It shall study and keep under review the status of the legislation, judicial decisions and administrative arrangements for the protection of the rights recognized in this Covenant and shall prepare and submit to the Head of State and the appropriate authorities of the Government an annual report on the progress made during each year in giving effect to the provisions of this Covenant;

(b) It may also advise the Government on any question referred to it by the Government in regard to the protection of the rights recognized in this Covenant;

(c) Copies of the report referred to in sub-paragraph (a) of this article shall be transmitted to the Human Rights Committee established under article 27 of this Covenant. The Committee may communicate to the Government concerned its confidential comments of a general character on the report thus submitted.

"2. Every member of the National Commission or other institution referred to in paragraph 1 of this article shall be a person of recognized competence and experience in the field of human rights.

"3. During their term of office the members of the National Commission or other institution referred to in paragraph 1 of this article shall be guaranteed the independent exercise of their functions."

558. The Committee considered this proposal at its 1436th meeting.

559. The representative of Jamaica withdrew the proposal as an amendment to the Covenant, but subsequently submitted a draft resolution (A/C.3/L.1408) calling for the placement of the proposal on the agenda of the twenty-second session of the General Assembly (see para. 613 below).

Issues discussed

560. In support of the Jamaican proposal, it was stated that the proposed National Commission on Human Rights would merely review and report on measures taken in the sphere of human rights and, if requested, advise the Government in the matter. The idea behind the proposal was not new, as the Economic and Social Council had on several occasions urged States to establish such institutions. The only new element would be the binding undertaking required of States to create or designate some such body.

561. Several speakers, however, contended that the adoption of the article would entail constitutional changes in their country, since it might in effect require the creation of a new branch of government, separate from the judiciary and the administrative authorities, to deal exclusively with human rights. Most countries needed no special machinery for that purpose; if some did, it was a strictly domestic matter.

FINAL CLAUSES (PART VI) OF THE DRAFT COVENANT ON CIVIL AND POLITICAL RIGHTS

562. The final clauses of the draft Covenant on Civil and Political Rights proposed by the Commission on Human Rights (A/6342, annex II B) were identical with those proposed by the Commission for the draft Covenant on Economic, Social and Cultural Rights. They read as follows:

"PART VI

"Article 51

"1. This Covenant shall be open for signature and ratification or accession on behalf of any State Member of the United Nations or of any non-member State to which an invitation has been extended by the General Assembly.

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"2. Ratification of or accession to this Covenant shall be effected by the deposit of an instrument of ratification or accession with the Secretary-General of the United Nations, and as soon as twenty States have deposited such instruments, the Covenant shall come into force among them. As regards any State which ratifies or accedes thereafter the Covenant shall come into force on the date of the deposit of its instrument of ratification or accession.

"3. The Secretary-General of the United Nations shall inform all Members of the United Nations, and other States which have signed or acceded, of the deposit of each instrument of ratification or accession.

"Article 52

"The provisions of the Covenant shall extend to all parts of federal States without any limitations or exceptions.

"Article 53

"The provisions of the present Covenant shall extend to or be applicable equally to a signatory metropolitan State and to all the territories, be they Non-Self-Governing, Trust, or Colonial Territories, which are being administered or governed by such metropolitan State.

"Article 54

"1. Any State Party to the Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendments to the States Parties to the Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one third of the States favours such a conference the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

"2. Such amendments shall come into force when they have been approved by the General Assembly and accepted by a two-thirds majority of the States Parties to the Covenant in accordance with their respective constitutional processes.

"3. When such amendments come into force they shall be binding on those Parties which have accepted them, other Parties being still bound by the provisions of the Covenant and any earlier amendment which they have accepted."

563. The Committee considered the final clauses at its 1437th meeting.

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Amendment

564. An amendment was submitted by the representative of the United Kingdom of Great Britain and Northern Ireland (A/C.3/L.1353/Rev.3) calling for the addition, after article 51, of a new article reading as follows:

"1. Any State may, on depositing its instrument of acceptance to the Covenant, make a reservation which is not incompatible with the object and purpose of the Covenant.

"2. As soon as the Covenant has entered into force in accordance with the third paragraph of article ___ the Secretary-General of the United Nations shall, subject to paragraph 5 of this article, circulate a copy of all reservations received by him to all States which have by the date of circulation deposited an instrument of acceptance with or without reservation.

"3. Copies of reservations received after the entry into force of this Covenant shall, subject to paragraph 5 of this article, forthwith be circulated by the Secretary-General to all States parties thereto.

"4. A reservation shall be deemed to be accepted if not less than two-thirds of the States to whom copies have been circulated in accordance with this article accept or do not object to it within a period of three months, following the date of circulation.

"5. Upon the acceptance of a reservation in accordance with paragraph 4 of this article, the instrument of ratification together with the reservation shall become effective.

"6. Any State making a reservation in accordance with this article may withdraw that reservation either in whole or in part at any time after its acceptance, by a notice addressed to the Secretary-General; such notice shall take effect on the date of its receipt; and a copy of such notice shall be circulated by the Secretary-General to all States parties hereto.

"7. In order to achieve the application to the fullest extent of the provisions of this Covenant, any State making a reservation in accordance with this article should, as soon as may be practicable, take such steps as will enable it to withdraw the reservation either in whole or in part."

This amendment was withdrawn in the light of the discussion.

Adoption of the final clauses

565. At its 1437th meeting, the Committee voted on a proposal by the Chairman that it adopt, as the final clauses of the draft Covenant on Civil and Political Rights, the final clauses already adopted for the draft Covenant on Economic, Social and Cultural Rights.

566. The final clauses, as a whole, were adopted unanimously.

567. The text of the final clauses of the draft Covenant on Civil and Political Rights, as adopted by the Third Committee, reads as follows:

"PART VI

"Article 51

"1. This Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to this Covenant.

"2. This Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

"3. This Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

"4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

"5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

"Article 51 bis

"1. This Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

"2. For each State ratifying this Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

"Article 52

"The provisions of the Covenant shall extend to all parts of federal States without any limitations or exceptions."

[Article 53 was deleted (see para. 138 above)]

/...

"Article 54

"1. Any State Party to the Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendments to the States Parties to the Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering the voting upon the proposal. In the event that at least one third of the States favours such a conference the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

"2. Such amendments shall come into force when they have been approved by the General Assembly and accepted by a two-thirds majority of the States Parties to the Covenant in accordance with their respective constitutional processes.

"3. When such amendments come into force they shall be binding on those Parties which have accepted them, other Parties being still bound by the provisions of the Covenant and any earlier amendment which they have accepted.

"Article 54 bis

"Irrespective of the notifications made under article 26, paragraph 5, of the present Covenant, the Secretary-General shall inform all States referred to in paragraph 1 of the same article of the following particulars:

- (a) Signatures, ratifications and accessions under article 26;
- (b) The date of the entry into force of this Covenant under article 26 bis and the date of the entry into force of any amendments under article 29.

"Article 54 ter

"1. This Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

"2. The Secretary-General of the United Nations shall transmit certified copies of this Covenant to all States referred to in article 26 of this Covenant."

OPTIONAL PROTOCOL TO THE DRAFT COVENANT
ON CIVIL AND POLITICAL RIGHTS

568. At the 1441st meeting, in consequence of the decision taken by the Committee on article 41 bis (see para. 485 above), the representative of Nigeria submitted a draft protocol (A/C.3/L.1411) on the right of individual petition. As later revised (A/C.3/L.1411/Rev.2) and sponsored jointly by Canada, Chile, Costa Rica, Ghana, Jamaica, Lebanon, Netherlands, Nigeria, and Philippines, the proposal read as follows:

"The States Parties to the present Protocol,

"Considering that in order further to achieve the purposes of the Covenant on Civil and Political Rights (hereinafter referred to as 'the Covenant') and the implementation of its provisions it would be appropriate to enable the Human Rights Committee set up in part IV of the Covenant (hereinafter referred to as 'the Committee') to receive and consider, as provided in this Protocol, communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant,

"Have agreed as follows:

"Article 1

"A State Party to the Covenant that becomes a party to the present Protocol recognizes the competence of the Committee to receive and consider communications from individuals, subject to its jurisdiction, claiming to be victims of a violation by that State Party of any of the rights set forth in the Covenant. No communication shall be received by the Committee under this article if it concerns a State Party which is not a party to the Covenant and to the present Protocol.

"Article 2

"Subject to the provision of article 1, individuals claiming that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration.

/...

"Article 3

"The Committee shall consider inadmissible any communication under this Protocol which is anonymous, or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the Covenant.

"Article 4

"1. Subject to the provisions of the preceding article, the Committee shall bring any communication submitted to it to the attention of the State Party alleged to be violating any provision of the Covenant.

"2. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

"Article 5

"1. The Committee shall consider communications in the light of all written information made available to it by the individual and by the State Party concerned.

"2. The Committee shall not consider any communication from an individual unless it has ascertained that:

(a) the same matter is not being examined under another procedure of international investigation or settlement;

(b) the individual has exhausted all available domestic remedies.

This shall not be the rule where the application of the remedies is unreasonably prolonged.

"3. The Committee shall hold closed meetings when examining communications under the present Protocol.

"4. The Committee shall forward its views, if any, to the State Party concerned and to the individual.

"Article 6

"The Committee shall include in its annual report under article 45 of the Covenant a summary of its activities under this Protocol.

/...

"Article 7

"Pending the achievement of the objectives of General Assembly resolution 1514 (XV) of 14 December 1960 concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, the provisions of the present Protocol shall in no way limit the right of petition granted to these peoples by the Charter of the United Nations and other international Conventions and instruments under the United Nations and its specialized agencies.

"Article 8

"1. This Protocol is open for signature by any State which has signed the Covenant.

"2. This Protocol is subject to ratification by any State which has ratified the Covenant. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

"3. This Protocol shall be open to accession by any State which is a Party to the Covenant.

"4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

"5. The Secretary-General of the United Nations shall inform all States which have signed this Protocol or acceded to it of the deposit of each instrument of ratification or accession.

"Article 9

"1. Subject to the entry into force of the Covenant, this Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or instrument of accession.

"2. For each State ratifying this Protocol or acceding to it after the deposit of the tenth instrument of ratification or instrument of accession, this Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

"Article 10

"The provisions of this Protocol shall extend to all parts of federal States without any limitations or exceptions.

/...

"Article 11

"1. Any State Party to this Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to this Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one third of the States favours such a conference the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

"2. Such amendments shall come into force when they have been approved by the General Assembly and accepted by a two-thirds majority of the States Parties of this Protocol in accordance with their respective constitutional processes.

"3. When such amendments come into force they shall be binding on those Parties which have accepted them, other Parties being still bound by the provisions of this Protocol and any earlier amendment which they have accepted.

"Article 12

"1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations. Denunciation shall take effect three months after the date of receipt of the notification by the Secretary-General.

"2. Denunciation shall be without prejudice to the continued application of the provisions of this Protocol to any communication submitted under article 2 before the effective date of denunciation.

"Article 13

"Irrespective of the notifications made under article 8, paragraph 5, of this Protocol, the Secretary-General shall inform all States referred to in article 51, paragraph 1, of the Covenant on Civil and Political Rights of the following particulars:

- (a) Signatures, ratifications and accessions under article 8;
- (b) The date of the entry into force of this Protocol under article 9 and the date of the entry into force of any amendments under article 11;
- (c) Denunciations under article 12.

/...

"Article 14

"1. This Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

"2. The Secretary-General of the United Nations shall transmit certified copies of this Protocol to all States referred to in article 51 of the Covenant."

569. At the 1446th meeting the sponsors orally revised the text of the proposed protocol in the following particulars:

(a) The title was changed to read "Draft Optional Protocol to the draft Covenant on Civil and Political Rights";

(b) The words "under this article", in the penultimate line of article 1, and the words "Covenant and to the", in the last line of the same, were deleted;

(c) The words "under this Protocol" were inserted between "it" and "to" in the second line of article 4, paragraph 1;

(d) The words "received under this Protocol" were inserted after "communications" in article 5, paragraph 1;

(e) The words "if any" in article 5, paragraph 4, were deleted;

(f) The words "or acceded to" were inserted after "ratified" in article 8, paragraph 2;

(g) Article 8, paragraph 3, was changed to read: "This Protocol shall be open to accession by any State which has ratified or acceded to the Covenant".

570. The Committee considered the proposed protocol at its 1441st and 1446th meetings. During the discussion several speakers reaffirmed the views expressed with regard to the formerly proposed text of article 41 bis (see paras. 479-484 above).

Voting on the preamble and articles of the protocol

571. At its 1466th meeting, the Committee voted on the preamble and articles of the protocol. The voting was as follows:

Preamble

572. The preamble was adopted by 57 votes to none, with 22 abstentions.

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Article 1

573. Article 1 was adopted by 57 votes to 1, with 25 abstentions.

Article 2

574. Article 2 was adopted by 56 votes to none, with 26 abstentions.

Article 3

575. At the request of the representative of Upper Volta, a separate vote was taken on the words "on which it considers to be an abuse of the right of submission of such communications". The words were adopted by 49 votes to 2, with 30 abstentions.

576. Article 3 as a whole was adopted by 59 votes to none, with 25 abstentions.

Article 4

577. Article 4 was adopted by 59 votes to none, with 24 abstentions.

Article 5

578. Article 5, paragraph 1, was adopted by 55 votes to none, with 29 abstentions.

579. At the request of the representative of Iran, a separate vote was taken on article 5, sub-paragraph 2 (b). The sub-paragraph was adopted by 49 votes to 1, with 32 abstentions.

580. Article 5, paragraph 2, as a whole, was adopted by 54 votes to none, with 29 abstentions.

581. Article 5, paragraph 3, was adopted by 58 votes to none, with 27 abstentions.

582. At the request of the representatives of Iran and the United Arab Republic, a separate vote was taken on the words "and to the individual" in article 5, paragraph 4. The words were adopted by 45 votes to 18, with 17 abstentions.

583. Article 5, paragraph 4, as a whole, was adopted by 48 votes to none, with 34 abstentions.

584. Article 5 as a whole was adopted by 54 votes to none, with 30 abstentions.

/...

Article 6

585. Article 6 was adopted by 53 votes to none, with 32 abstentions.

Article 7

586. Article 7 was adopted by 81 votes to none, with 4 abstentions.

Article 8

587. Article 8 was adopted by 66 votes to none, with 15 abstentions.

Article 9

588. Article 9 was adopted by 63 votes to none, with 21 abstentions.

Article 10

589. Article 10 was adopted by 66 votes to none, with 17 abstentions.

Article 11

590. Article 11 was adopted by 63 votes to none, with 21 abstentions.

Article 12

591. Article 12 was adopted by 62 votes to none, with 17 abstentions.

Article 13

592. Article 13 was adopted by 55 votes to none, with 27 abstentions.

Article 14

593. Article 14 was adopted by 61 votes to none, with 23 abstentions.

ADOPTION OF THE DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS
AND THE DRAFT RESOLUTIONS RELATING THERETO

594. At its 1451st meeting, on 7 December 1966, the Committee voted on the text of the draft Covenant on Economic, Social and Cultural Rights (A/C.3/L.1414), of the draft Covenant on Civil and Political Rights (A/C.3/L.1414) and of the draft Optional Protocol to the draft Covenant on Civil and Political Rights (A/C.3/L.1414/Add.1), each as a separate whole, with minor drafting changes suggested by its officers (A/C.3/L.1417) and by representatives in the course of the discussion.

595. The draft Covenant on Economic, Social and Cultural Rights was adopted unanimously.

596. The draft Covenant on Civil and Political Rights was also adopted unanimously. At the request of the representative of the United States of America, the vote was taken by roll-call. The voting was as follows:

In favour Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Byelorussian SSR, Cameroon, Canada, Central African Republic, Ceylon, Chad, Chile, China, Colombia, Congo (Brazzaville), Congo (Democratic Republic of), Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, Ethiopia, Finland, France, Gabon, Ghana, Greece, Guatemala, Guinea, Honduras, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Mali, Mexico, Morocco, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Panama, Philippines, Poland, Portugal, Romania, Rwanda, Saudi Arabia, Sierra Leone, Spain, Sudan, Sweden, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Ukrainian SSR, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Upper Volta, Uruguay, Venezuela, Yugoslavia, Zambia.

Against: None.

Abstaining: None.

597. The Optional Protocol to the draft Covenant on Civil and Political Rights was adopted by 59 votes to 2, with 32 abstentions. At the request of the representative of the Philippines, the vote was taken by roll-call. The voting was as follows:

/...

In favour: Afghanistan, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Canada, Ceylon, Chile, China, Colombia, Costa Rica, Cyprus, Denmark, Dominican Republic, Ecuador, Finland, France, Ghana, Guatemala, Honduras, Iceland, India, Iran, Ireland, Israel, Italy, Ivory Coast, Jamaica, Jordan, Kenya, Lebanon, Libya, Luxembourg, Madagascar, Mexico, Morocco, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Panama, Philippines, Spain, Sudan, Sweden, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Uruguay, Venezuela, Zambia.

Against: Niger, Togo.

Abstaining: Algeria, Bulgaria, Byelorussian SSR, Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Czechoslovakia, Dahomey, Ethiopia, Greece, Guinea, Hungary, Iraq, Japan, Liberia, Mali, Poland, Portugal, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Syria, Thailand, Ukrainian SSR, Union of Soviet Socialist Republics, United Republic of Tanzania, Yugoslavia.

598. At the same meeting, the Committee considered a draft resolution submitted by Afghanistan, Argentina, Bolivia, Chile, Costa Rica, Denmark, Ecuador, Ghana, India, Libya, Mexico, Nigeria, Pakistan, Upper Volta, Uruguay and Venezuela (A/C.3/L.1409 and Add.1) concerning the adoption and opening for signature of the Covenants and Optional Protocol. The representative of Nigeria later withdrew as sponsor of the draft resolution.

599. The operative part of the fifteen-Power draft resolution read as follows:

"1. Adopts and opens for signature, ratification and accession the International Covenants on Human Rights annexed to this resolution;

"2. Expresses the hope that the Covenants will be signed and ratified or acceded to without delay and come into force at an early date;

"3. Requests the Secretary-General to submit to the General Assembly at its future sessions reports concerning the state of ratifications of the Covenants which will be considered by the Assembly as separate agenda items."

600. The representative of Lebanon orally proposed an amendment which, as revised in the course of the discussion, called for the replacement of operative paragraph 1 by the following:

/...

"1. Adopts and opens for signature, ratification and accession the following international instruments, the texts of which are annexed to this resolution:

- "(i) The International Covenant on Economic, Social and Cultural Rights;
- "(ii) The International Covenant on Civil and Political Rights;
- "(iii) The Optional Protocol to the International Covenant on Civil and Political Rights."

601. The representative of the Netherlands proposed an amendment calling for the insertion in operative paragraph 2, after the word "Covenants", of the words "and the Optional Protocol".

602. The representative of Ghana proposed an amendment calling for the same insertion as proposed by the Netherlands in operative paragraph 3.

603. Paragraph 1 (iii) of the amendment of Lebanon (see para. 600 above), having been put to the vote separately at the request of the representative of Iraq, was adopted by 53 votes to 7, with 27 abstentions. The amendment of Lebanon, as a whole, was adopted by 56 votes to 1, with 29 abstentions.

604. The amendment of the Netherlands (see para. 601 above) was adopted by 47 votes to 13, with 27 abstentions. Operative paragraph 2 as a whole, as amended, was adopted by 50 votes to 1, with 36 abstentions.

605. The amendment of Ghana (see para. 602 above) was adopted by 49 votes to 6, with 32 abstentions. Operative paragraph 3 as a whole, as amended, was adopted by 51 votes to none, with 37 abstentions.

606. The fifteen-Power draft resolution as a whole, as amended, was adopted by 75 votes to none, with 12 abstentions (for text, see para. 627, draft resolution A).

607. At its 1452nd meeting, on 8 December 1966, the Committee considered a draft resolution submitted by Afghanistan, Chile, Denmark, Ghana, India, Libya, Nigeria, Pakistan and Upper Volta (A/C.3/L.1410) concerning the publicity to be given to the Covenants. The text read as follows:

"The General Assembly,

"Considering that the text of the International Covenants on Human Rights should be made known throughout the world,

"1. Requests the Governments of States and non-governmental organizations to publicize the text of the Covenants as widely as possible, using every means at their disposal, including all the appropriate media of information;

"2. Requests the Secretary-General to ensure immediate and wide circulation of the Covenants and to that end to publish and distribute their text."

608. An amendment submitted by the representative of Uruguay, as revised on the suggestion of the representative of Lebanon, called for the following:

(a) the replacement of the preamble by the following:

"Considering that the text of the International Covenant on Economic, Social and Cultural Rights, the text of the International Covenant on Civil and Political Rights and the text of the Optional Protocol to the International Covenant on Civil and Political Rights should be made known throughout the world,";

(b) the replacement, in operative paragraphs 1 and 2, of the words "the Covenants" by "these instruments".

609. The amendment of Uruguay to the preamble (see para. 608 (a) above) was adopted by 51 votes to 11, with 27 abstentions. The preamble as a whole, as amended, was adopted by 61 votes to none, with 27 abstentions.

610. The amendment of Uruguay to operative paragraph 1 (see para. 608 (b) above) was adopted by 59 votes to none, with 30 abstentions. The words "and non-governmental organizations", in paragraph 1, on which a separate vote had been requested by the representative of the Byelorussian Soviet Socialist Republic, were adopted by 56 votes to 15, with 19 abstentions. Operative paragraph 1 as a whole, as amended, was adopted by 61 votes to none, with 27 abstentions.

611. The amendment of Uruguay to operative paragraph 2 (see para. 608 (b) above) was adopted by 56 votes to 1, with 33 abstentions. Operative paragraph 2 as a whole, as amended, was adopted by 64 votes to none, with 25 abstentions.

612. The nine-Power draft resolution as a whole, as amended, was adopted by 73 votes to none, with 17 abstentions (for text see para. 627, draft resolution B).

DRAFT RESOLUTION ON THE ESTABLISHMENT OF NATIONAL
HUMAN RIGHTS COMMISSIONS

613. After withdrawing his proposal for an additional article in the draft Covenant on Civil and Political Rights dealing with the establishment of national commissions on human rights (see paras. 557-559 above), the representative of Jamaica submitted a draft resolution (A/C.3/L.1408) on the subject, reading as follows:

"The General Assembly,

"Considering that a proposal for the establishment of national commissions on human rights or the designation of other appropriate institutions, to perform certain functions pertaining to the Covenant on Civil and Political Rights (A/C.3/L.1407), was submitted to the Third Committee,

"Considering that this proposal requires further and more extensive study on the part of various Governments,

"1. Decides that this proposal should be placed on the agenda of the twenty-second regular session of the General Assembly;

"2. Requests the Secretary-General to invite Member States to submit their comments on the proposal in order that it may consider at its twenty-second regular session the proposal together with these comments."

614. As later revised and sponsored jointly by Jamaica, Nigeria and Pakistan, the draft resolution (A/C.3/L.1408/Rev.1) contained a new operative part reading as follows:

"1. Requests the Economic and Social Council to transmit this proposal to the Commission on Human Rights for its consideration and recommendations;

"2. Requests the Secretary-General to invite Member States to submit their comments on the proposal in order that the Commission on Human Rights might take these comments into account when considering the proposal;

"3. Decides that the proposal should be placed on the agenda of the twenty-third regular session of the General Assembly."

615. In the light of the discussion, the sponsors agreed to withdraw operative paragraph 3.

616. The Committee considered this item at its 1452nd, 1453rd, 1455th and 1456th meetings.

/...

Amendments

617. The representative of the United Arab Republic submitted oral amendments to the revised text (see paras. 613-614 above) calling for the following:

- (a) The replacement, in the first preambular paragraph, of the words "Considering that a proposal" by "Considering the advisability of the proposals";
 - (b) The insertion in that paragraph, after "pertaining to", of the words "the observance of";
 - (c) The insertion in that paragraph, after "Covenant on Civil and Political Rights", of the words "and the Covenant on Economic, Social and Cultural Rights";
 - (d) The deletion from that paragraph of the reference to document A/C.3/L.1407 and of the words following it;
 - (e) The deletion of the second preambular paragraph;
 - (f) The redrafting of operative paragraph 1 to read: "Invites the Economic and Social Council to request the Commission on Human Rights to examine the question in all its aspects and to report through the Economic and Social Council to the General Assembly";
 - (g) To replace the word "proposal", in operative paragraph 2, by "question".
618. These amendments were accepted by the sponsors at the 1455th meeting.

Issues discussed

619. Representatives opposed to the three-Power draft resolution (see paras. 613-618 above) felt that its purpose was to introduce into the Covenant on Civil and Political Rights a new implementation procedure. Thus the adoption of the proposal would in fact amount to amending the Covenant, in a manner not consistent with the article relating to amendments in the Final Clauses (article 51, see para. 627 below, draft resolution A, annex), before the Covenant had even entered into force.

620. Other representatives, speaking in favour of the three-Power draft resolution, stressed that its purpose was merely to ensure consideration of the question of national human rights agencies, by the competent United Nations organs, at an appropriate time. There was no question at this stage of introducing an amendment to the Covenant, as the draft resolution called only for a study by the Commission on Human Rights and Governments would be invited to submit comments for the Commission's guidance.

Adoption of the draft resolution

621. At its 1456th meeting, on 10 December 1966, the Committee voted on the revised three-Power draft resolution, as further revised (A/C.3/L.1408/Rev.2) to include the amendments which the sponsors had accepted (see paras. 617-618 above). The text voted upon read as follows :

"The General Assembly,

"Considering the advisability of the proposals for the establishment of national commissions on human rights or the designation of other appropriate institutions to perform certain functions pertaining to the observance of the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights,

"1. Invites the Economic and Social Council to request the Commission on Human Rights to examine the question in all its aspects and to report through the Economic and Social Council to the General Assembly;

"2. Requests the Secretary-General to invite Member States to submit their comments on the question in order that the Commission on Human Rights might take these comments into account when considering the proposal."

622. The words "and the Covenant on Economic, Social and Cultural Rights", in the preambular paragraph (see para. 621 above), on which a separate roll-call vote had been requested by the representative of the Ukrainian Soviet Socialist Republic, were adopted by 74 votes to none, with 4 abstentions. The voting was as follows:

In favour: Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Ceylon, Chad, Chile, China, Colombia, Congo (Brazzaville), Congo (Democratic Republic of), Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, Ethiopia, Finland, France, Ghana, Greece, Guinea, Honduras, Hungary, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Jamaica, Jordan, Kenya, Lebanon, Liberia, Libya, Madagascar, Mali, Mauritania, Mexico, Mongolia, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Panama, Philippines, Poland, Romania, Rwanda, Saudi Arabia, Sierra Leone, Spain, Sudan, Sweden, Syria, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Yugoslavia.

/...

Against: None.

Abstaining: Japan, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America.

623. The preambular paragraph (see para. 621 above) as a whole was adopted by 53 votes to 10, with 15 abstentions.

624. Operative paragraph 1, (see para. 621 above) was adopted by 55 votes to 12, with 15 abstentions.

625. Operative paragraph 2, (see para. 621 above) on which a separate roll-call vote had been requested by the representative of Nigeria, was adopted by 43 votes to 13, with 29 abstentions. The voting was as follows:

In favour: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Canada, Ceylon, Chile, China, Colombia, Costa Rica, Cyprus, Dahomey, Denmark, Dominican Republic, Ecuador, Finland, Ghana, Greece, Honduras, Iran, Ireland, Israel, Italy, Jamaica, Lebanon, Madagascar, Mexico, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Panama, Philippines, Sierra Leone, Spain, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Guinea, Hungary, Mongolia, Poland, Romania, Senegal, Ukrainian Soviet Socialist Republic, Union of Socialist Republics, Yugoslavia.

Abstaining: Afghanistan, Algeria, Cameroon, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Ethiopia, France, Guatemala, India, Indonesia, Iraq, Japan, Jordan, Kenya, Liberia, Libya, Mali, Mauritania, Portugal, Rwanda, Saudi Arabia, Sudan, Syria, Tunisia, Uganda, United Arab Republic, United Republic of Tanzania, Zambia.

626. The revised three-Power draft resolution as a whole was adopted by 50 votes to 11, with 23 abstentions (for text see para. 627 below, draft resolution C).

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RECOMMENDATIONS OF THE THIRD COMMITTEE

627. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL
RIGHTS, INTERNATIONAL COVENANT ON CIVIL AND POLITICAL
RIGHTS AND OPTIONAL PROTOCOL TO THE INTERNATIONAL
COVENANT ON CIVIL AND POLITICAL RIGHTS

A

The General Assembly,

Considering that one of the purposes of the United Nations as stated in Articles 1 and 55 of the Charter is to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Considering that in Article 56 of the Charter all Members of the United Nations have pledged themselves to take joint and separate action in co-operation with the Organization for the achievement of that purpose,

Recalling the proclamation by the General Assembly on 10 December 1948 of the Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations,

Having considered, from its ninth regular session, the draft International Covenants on Human Rights prepared by the Commission on Human Rights and transmitted to it by resolution 545 B (XVIII) of the Economic and Social Council, and having completed their elaboration at its twenty-first session,

1. Adopts and opens for signature, ratification and accession the following international instruments, the texts of which are annexed to this resolution:

- (i) The International Covenant on Economic, Social and Cultural Rights;
- (ii) The International Covenant on Civil and Political Rights;
- (iii) The Optional Protocol to the International Covenant on Civil and Political Rights;

2. Expresses the hope that the Covenants and the Optional Protocol will be signed and ratified or acceded to without delay and come into force at an early date;

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3. Requests the Secretary-General to submit to the General Assembly at its future sessions reports concerning the state of ratifications of the Covenants and of the Optional Protocol which will be considered by the Assembly as separate agenda items.

ANNEX

INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of the right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the United Nations Charter.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in this Covenant.

Article 4

The States Parties to the present Covenant recognize that in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

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Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person, any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work, which ensure, in particular:

- (a) Remuneration which provides all workers as a minimum with:
 - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; and

- (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- (b) Safe and health working conditions;
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

Article 8

1. The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedom of others;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, or of the police, or of the administration of the State.

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3. Nothing in this article shall authorize States Parties to the International Labour Convention of 1948 on Freedom of Association and Protection of the Rights to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security including social insurance.

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses;

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits;

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including

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adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources; and

(b) Take into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full

development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians, to choose for their children schools other than those established by the public authorities which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

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Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Article 15

1. The States Parties to the present Covenant recognize the right of everyone:

- (a) To take part in cultural life;
- (b) To enjoy the benefits of scientific progress and its applications;
- (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

PART IV

Article 16

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

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2. (a) All reports shall be submitted to the Secretary-General of the United Nations who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant.

(b) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

Article 17

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.

3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant it will not be necessary to reproduce that information but a precise reference to the information so furnished will suffice.

Article 18

Pursuant to its responsibilities under the Charter in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

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Article 19

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or as appropriate for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

Article 20

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission or any documentation referred to therein.

Article 21

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

Article 22

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance, any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

Article 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes

such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

Article 24

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 25

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART V

Article 26

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

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5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 27

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 28

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 29

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one third of the States Parties favours such a conference the Secretary-General of the United Nations shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

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3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties being still bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 30

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

- (a) Signatures, ratifications and accessions under article 26;
- (b) The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

Article 31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.

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INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of the right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

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3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the United Nations Charter.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall inform immediately the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.

2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

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PART III

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

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3. (a) No one shall be required to perform forced or compulsory labour;
- (b) The preceding sub-paragraph shall not be held to preclude in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;
- (c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:
 - (i) Any work or service, not referred to in sub-paragraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;
 - (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;
 - (iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
 - (iv) Any work or service which forms part of normal civil obligations.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that such court may decide

without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons, and shall be subject to separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order ("ordre public"), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and the public may be excluded from all or part of a trial for reasons of morals, public order ("ordre public") or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juveniles otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he understands **is** of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself, or to confess guilt.

4. In the case of juveniles, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequently to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians, to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in the foregoing paragraph carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall be such only as are provided by law and are necessary, (1) for respect of the rights or reputations of others, (2) for the protection of national security or of public order ("ordre public"), or of public health or morals.

Article 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order ("ordre public"), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order ("ordre public"), the protection of public health or morals or the protection of the rights and

freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

3. Nothing in this article shall authorize States Parties to the International Labour Convention of 1948 on Freedom of Association and Protection of the Right to Organise to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in the Convention.

Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as required by his status as a minor, on the part of his family, the society and the State.

2. Every child shall be registered immediately after birth and shall have a name.

3. Every child has the right to acquire a nationality.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country.

Article 26

All persons are equal before the law and are entitled without any discrimination to equal protection of the law. In this respect the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

PART IV

Article 28

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as "the Committee"). It shall consist of eighteen members and shall carry out the functions hereinafter provided.

2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.

3. The members of the Committee shall be elected and shall serve in their personal capacity.

Article 29

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in article 28 and nominated for the purpose by the States Parties to the present Covenant.

2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.

3. A person shall be eligible for renomination.

Article 30

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.

2. At least four months before the date of each election of the Committee, other than an election to fill a vacancy declared in accordance with article 34, the Secretary-General of the United Nations shall address a written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.

3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.

4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary-General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

Article 31

1. The Committee may not include more than one national of the same State.
2. In the election of the Committee consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization as well as of the principal legal systems.

Article 32

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in paragraph 4 of article 30.
2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

Article 33

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations who shall then declare the seat of that member to be vacant.
2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

Article 34

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.

2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.

3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

Article 35

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide having regard to the importance of the Committee's responsibilities.

Article 36

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Covenant.

Article 37

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations Office at Geneva.

Article 38

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

Article 39

1. The Committee shall elect its officers for a term of two years. They may be re-elected.

2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:

- (a) Twelve members shall constitute a quorum;
- (b) Decisions of the Committee shall be made by a majority vote of the members present.

Article 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights; (a) within one year of the entry into force of the present Covenant for the States Parties concerned and (b) thereafter whenever the Committee so requests.

2. All reports shall be submitted to the Secretary-General of the United Nations who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.

3. The Secretary-General of the United Nations may after consultation with the Committee transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.

4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports and such general comments as it may consider appropriate to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.

5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

Article 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of this present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication, the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter.

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State.

(c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.

(d) The Committee shall hold closed meetings when examining communications under this article.

(e) Subject to the provisions of sub-paragraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in this Covenant.

(f) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in sub-paragraph (b), to supply any relevant information.

(g) The States Parties concerned, referred to in sub-paragraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing.

(h) The Committee shall, within twelve months after the date of receipt of notice under sub-paragraph (b), submit a report:

- (i) If a solution within the terms of sub-paragraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;
- (ii) If a solution is not reached, within the terms of sub-paragraph (e), the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this articles; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General of the United Nations unless the State Party concerned had made a new declaration.

Article 42

1. (a) If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an ad hoc

Conciliation Commission (hereinafter referred to as "the Commission"). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;

(b) The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission the members of the Commission concerning whom no agreement was reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not party to the present Covenant, or of a State Party which has not made a declaration under article 41.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.

5. The secretariat provided in accordance with article 36 shall also service the Commissions appointed under this article.

6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information.

7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned.

(a) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter.

(b) If an amicable solution to the matter on the basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached.

(c) If a solution within the terms of sub-paragraph (b) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, as well as its views on the possibilities of amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned.

(d) If the Commission's report is submitted under sub-paragraph (c), the States Parties concerned shall, within three months of the receipt of the report, inform the Chairman of the Committee whether or not they accept the contents of the report of the Commission.

8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41.

9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned in accordance with paragraph 9 of this article.

Article 43

The members of the Committee and of the ad hoc conciliation commissions which may be appointed under article 41, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 44

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of

the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

Article 45

The Committee shall submit to the General Assembly, through the Economic and Social Council, an annual report on its activities.

PART V

Article 46

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 47

Nothing in the Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART VI

Article 48

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 49

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 50

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 51

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one third of the States Parties favours such a conference the Secretary-General of the United Nations shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties being still bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 52

Irrespective of the notifications made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 48;

(b) The date of the entry into force of the present Covenant under article 49 and the date of the entry into force of any amendments under article 51.

Article 53

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.

OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL
AND POLITICAL RIGHTS

The States Parties to the present Protocol,

Considering that in order further to achieve the purposes of the Covenant on Civil and Political Rights (hereinafter referred to as "the Covenant") and the implementation of its provisions it would be appropriate to enable the Human Rights Committee set up in part IV of the Covenant (hereinafter referred to as "the Committee") to receive and consider, as provided in the present Protocol, communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant,

Have agreed as follows:

Article 1

A State Party to the Covenant that becomes a party to the present Protocol recognizes the competence of the Committee to receive and consider communications from individuals, subject to its jurisdiction, claiming to be victims of a violation by that State Party of any of the rights set forth in the Covenant. No communication shall be received by the Committee if it concerns a State Party to the Covenant which is not a Party to the present Protocol.

Article 2

Subject to the provision of article 1, individuals claiming that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration.

Article 3

The Committee shall consider inadmissible any communication under this Protocol which is anonymous, or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the Covenant.

Article 4

1. Subject to the provisions of article 3, the Committee shall bring any communications submitted to it under the present Protocol to the attention of the State Party to the present Protocol alleged to be violating any provision of the Covenant.
2. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

Article 5

1. The Committee shall consider communications received under the present Protocol in the light of all written information made available to it by the individual and by the State Party concerned.
2. The Committee shall not consider any communication from an individual unless it has ascertained that:
 - (a) the same matter is not being examined under another procedure of international investigation or settlement;
 - (b) the individual has exhausted all available domestic remedies. This shall not be the rule where the application of the remedies is unreasonably prolonged.
3. The Committee shall hold closed meetings when examining communications under the present Protocol.
4. The Committee shall forward its views to the State Party concerned and to the individual.

Article 6

The Committee shall include in its annual report under article 45 of the Covenant a summary of its activities under the present Protocol.

Article 7

Pending the achievement of the objectives of General Assembly resolution 1514 (XV) of 14 December 1960 concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, the provisions of the present

Protocol shall in no way limit the right of petition granted to these peoples by the Charter of the United Nations and other international conventions and instruments under the United Nations and its specialized agencies.

Article 8

1. The present Protocol is open for signature by any State which has signed the Covenant.
2. The present Protocol is subject to ratification by any State which has ratified or acceded to the Covenant. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State which has ratified or acceded to the Covenant.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 9

1. Subject to the entry into force of the Covenant, the present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or instrument of accession.
2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or instrument of accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 10

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 11

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one third of the States Parties favours such a conference the Secretary-General of the United Nations shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. Amendments shall come into force when they have been approved by the General Assembly and accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.
3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties being still bound by the provisions of the present Protocol and any earlier amendment which they have accepted.

Article 12

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations. Denunciation shall take effect three months after the date of receipt of the notification by the Secretary-General of the United Nations.
2. Denunciation shall be without prejudice to the continued application of the provisions of the present Protocol to any communication submitted under article 2 before the effective date of denunciation.

Article 13

Irrespective of the notifications made under article 8, paragraph 5, of the present Protocol, the Secretary-General of the United Nations shall inform all States referred to in article 48, paragraph 1, of the Covenant of the following particulars:

- (a) Signatures, ratifications and accessions under article 8;
- (b) The date of the entry into force of the present Protocol under article 9 and the date of the entry into force of any amendments under article 11;
- (c) Denunciations under article 12.

Article 14

1. The present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 48 of the Covenant.

B

The General Assembly,

Considering that the text of the International Covenant on Economic, Social and Cultural Rights, the text of the International Covenant on Civil and Political Rights and the text of the Optional Protocol to the International Covenant on Civil and Political Rights should be made known throughout the world,

1. Requests the Governments of States and non-governmental organizations to publicize the text of these instruments as widely as possible, using every means at their disposal, including all the appropriate media of information;

2. Requests the Secretary-General to ensure immediate and wide circulation of these instruments and to that end to publish and distribute their text.

C

The General Assembly,

Considering the advisability of the proposals for the establishment of national commissions on human rights or the designation of other appropriate institutions to perform certain functions pertaining to the observance of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

1. Invites the Economic and Social Council to request the Commission on Human Rights to examine the question in all its aspects and to report through the Economic and Social Council to the General Assembly;

2. Requests the Secretary-General to invite Member States to submit their comments on the question in order that the Commission on Human Rights might take these comments into account when considering the proposal.
