E/1993/22
E/C.12/1992/2

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

REPORT ON THE SEVENTH SESSION

(23 November-11 December 1992)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1993

SUPPLEMENT No. 2

UNITED NATIONS
New York, 1993

NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

E/1993/22
E/C.12/1992/2

CONTENTS

GE.93-16791

CONTENTS (continued)

CONTENTS (continued)

ABBREVIATIONS

CERN	European Organization for Nuclear Research
FAO	Food and Agriculture Organization of the United Nations
GDP	Gross domestic product
ILO	International Labour Organisation
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNRISD	United Nations Research Institute for Social Development
WHO	World Health Organization

Chapter I

DRAFT DECISIONS RECOMMENDED FOR ADOPTION BY THE ECONOMIC AND SOCIAL COUNCIL

DRAFT DECISION I

Technical assistance in implementing the International Covenant on Economic, Social and Cultural Rights

The Economic and Social Council takes note of the decision of the Committee on Economic, Social and Cultural Rights (E/1993/22, para. 199) to inform the Government of Panama of its offer, in accordance with the procedures for follow-up action adopted at the Committee's seventh session and in pursuance of article 23 of the International Covenant on Economic, Social and Cultural Rights, to send one or two of its members to pursue its dialogue with the Government in relation to the matters identified in the report on its sixth session (E/1992/23, para. 135). The Council approves the Committee's action, subject to the acceptance of the Committee's offer by the State party concerned.

DRAFT DECISION II

Technical assistance in implementing the International Covenant on Economic, Social and Cultural Rights

The Economic and Social Council renews its endorsement of the decision of the Committee on Economic, Social and Cultural Rights (E/1993/22, para. 201) to inform the Government of the Dominican Republic of its offer, in accordance with the procedures for follow-up action adopted at the Committee's seventh session and in pursuance of article 23 of the International Covenant on Economic, Social and Cultural Rights, to send one or two of its members to pursue its dialogue with the Government in relation to the matters identified to promote full compliance with the Covenant in the case of the large-scale evictions referred to in the Committee's reports. The Council approves the Committee's action, subject to the acceptance of the Committee's offer by the State party concerned.

Chapter II

ORGANIZATIONAL AND OTHER MATTERS

A. States parties to the Covenant

1. As at 11 December 1992, the closing date of the seventh session of the Committee on Economic, Social and Cultural Rights, 118 States had ratified or acceded to the International Covenant on Economic, Social and Cultural Rights which was adopted by the General Assembly in resolution 2200 A (XXI) of 16 December 1966 and opened for signature and ratification in New York on 19 December 1966. The Covenant entered into force on 3 January 1976 in accordance with the provisions of its article 27. A list of States parties to the Covenant is contained in annex I to the present report.

B. Opening and duration of the session

2. The seventh session of the Committee on Economic, Social and Cultural Rights, was held at the United Nations Office at Geneva from 23 November to 11 December 1992.

3. The Committee held 23 meetings. An account of the deliberations of the Committee is contained in the relevant summary records (E/C.12/1992/SR.1-23).

C. Membership and attendance

4. All members of the Committee, except Mr. Abdel Halim Badawi and Mr. Juan Alvarez Vita, attended the seventh session. Mr. Jaime Alberto Marchán Romero and Mr. Kenneth Osborne Rattray attended only part of the session. A list of the members of the Committee is given in annex II to the present report.

5. The following specialized agencies were represented by observers: International Labour Organisation, United Nations Educational, Scientific and Cultural Organization and the World Health Organization.

6. The following United Nations organs were represented by observers: United Nations Development Programme.

7. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers:

Category II: International Service for Human Rights;
Roster: Habitat International Coalition.

D. Pre-sessional working group

8. The Economic and Social Council, in its resolution 1988/4 of 24 May 1988, authorized the establishment of a pre-sessional working group composed of five members to be appointed by the Chairman to meet for a period of up to one week prior to each session. By decision 1990/252 of 25 May 1990 the Council authorized that the meetings of the working group may be held one to three months prior to a session of the Committee.

9. The Chairman of the Committee, in consultation with the members of the Bureau, designated the following individuals as members of the pre-sessional working group to meet prior to the seventh session:

Mrs. Virginia BONOAN-DANDAN
Mr. Samba Cor KONATE
Mr. Wladyslaw NENEMAN
Mr. Bruno SIMMA
Mr. Javier WIMER ZAMBRANO

10. The pre-sessional working group held its meetings at the United Nations Office at Geneva from 29 June to 3 July 1992. All members of the working group attended its meetings. Mr. Bruno Simma was elected Chairman-Rapporteur. The working group identified questions that might most usefully be discussed with the representatives of the reporting States and lists of such questions were transmitted to the permanent missions of the States concerned.

E. Officers of the Committee

11. The following members of the Committee, elected at the sixth session for a term of two years, in accordance with rules 14 and 15 of the Committee's rules of procedure, continued to serve as members of the Committee's Bureau:

Chairman:	Mr. Philip ALSTON
Vice-Chairmen:	Mrs. Virginia BONOAN-DANDAN Mr. Alexandre MUTERAHEJURU Mr. Kenneth Osborne RATTRAY
Rapporteur:	Mr. Vassil I. MRATCHKOV

F. Agenda

12. At its 1st meeting, the Committee adopted the items listed on the provisional agenda submitted by the Secretary-General (E/C.12/1992/1) as the agenda of its seventh session. The agenda of the seventh session, as adopted, was as follows:

1. Adoption of the agenda.

2. Organization of work.

3. Action by the Commission on Human Rights at its forty-eighth session, the Economic and Social Council at its substantive session of 1992; and the General Assembly at its forty-seventh session.

4. Submission of reports by States parties in accordance with articles 16 and 17 of the Covenant.

5. Consideration of reports:

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant;

(b) Reports submitted by specialized agencies in accordance with article 18 of the Covenant.

6. General discussion on the right to take part in cultural life as recognized in article 15 of the Covenant.

7. Preparatory activities relating to the World Conference on Human Rights.

8. Relations with United Nations organs and other treaty bodies.

9. Formulation of suggestions and recommendations of a general nature based on the consideration of reports submitted by States parties to the Covenant and by the specialized agencies.

10. Report of the Committee to the Economic and Social Council.

G. Organization of work

13. The Committee considered its organization of work at its 1st meeting, held on 23 November, 3rd meeting on 24 November, 6th and 7th meetings on 26 November, 8th meeting on 27 November, 11th meeting on 1 December and 23rd meeting on 11 December 1992. In connection with this item, the Committee had before it the following documents:

(a) Draft programme of work for the seventh session, prepared by the Secretary-General in consultation with the Chairman of the Committee (E/C.12/1992/L.1);

(b) Reports of the Committee on the work of its first (E/1987/28), second (E/1988/14), third (1989/22), fourth (E/1990/23), fifth (E/1991/23) and sixth (E/1992/23) sessions;

14. In accordance with rule 8 of its rules of procedure, the Committee at its 1st meeting on 23 November 1992 considered the draft programme of work for its seventh session and approved it, as amended during consideration (see E/C.12/1992/L.1/Rev.1).

H. Next session

15. The Committee took note of Economic and Social Council decision 1992/259 of 20 July 1992 by which it authorized the holding of an extraordinary additional session, of three weeks' duration, of the Committee in the first half of 1993. Accordingly, the eighth (extraordinary) session would take place from 10 to 28 May 1993, and the ninth (regular) session would be held from 22 November to 10 December 1993.

I. States parties' reports scheduled for consideration by the Committee at its eighth session

16. The Committee at its 22nd meeting, held on 10 December 1992, decided that the following States parties' reports would be considered at its eighth session:

Initial reports concerning articles 10 to 12 of the Covenant

Nicaragua	E/1986/3/Add.15

Second periodic reports concerning articles 13 to 15 of the Covenant

Ukraine	E/1990/7/Add.11
Germany	E/1990/7/Add.12
Australia	E/1990/7/Add.13

Initial reports concerning articles 1 to 15 of the Covenant

New Zealand	E/1990/5/Add.5
New Zealand (Tokelau)	E/1990/Add.11*
New Zealand (Niue)	E/1990/5/Add.12*
Iceland	E/1990/5/Add.6
Uruguay	E/1990/5/Add.7
Iran (Islamic Republic of)	E/1990/5/Add.9
Viet Nam	E/1990/5/Add.10

Second periodic reports concerning articles 1 to 15 of the Covenant

Canada	E/1990/6/Add.3

17. The Committee also decided that it would review the implementation of the provisions of the Covenant in the four States parties which have not submitted any report at all since their ratification of the Covenant, on the basis of any information that may be available to it: Belgium, Kenya, Lebanon and Suriname.

J. Composition of the pre-sessional working group (eighth session of the Committee)

18. At the 23rd meeting, held on 11 December 1992, the Chairman designated the following members to serve on the Committee's pre-sessional working group: Mr. Valeri I. Kouznetsov, Mrs. Virginia Bonean-Dandan, Mr. Alexandre Muterahejuru, Mr. Bruno Simma and Mr. Javier Wimer Zambrano.

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* The Committee subsequently agreed to reschedule this report for consideration at its ninth session. It recalled in this respect the principle stated in paragraph 35 of the report on its sixth session (E/1992/23).

Chapter III

OVERVIEW OF THE PRESENT WORKING METHODS OF THE COMMITTEE

19. Since its first session, in 1987, the Committee has made a concerted effort to devise appropriate working methods which adequately reflect the nature of the tasks with which it has been entrusted. In the course of the first seven sessions it has sought to modify and develop these methods in the light of its experience. It may be expected that these methods will continue to evolve, taking account of: the introduction of the new reporting system which requires that a single global report be submitted every five years, the evolution of the procedures developing within the treaty regime as a whole and the feedback which the Committee receives from States parties and the Economic and Social Council.

20. The following overview of the Committee's methods of work is designed to make the Committee's current practice more transparent and readily accessible so as to assist States parties and others interested in the implementation of the Covenant.

A. General guidelines for reporting

21. The Committee attaches major importance to the need to structure the reporting process and the dialogue with each State party's representatives in such a way as to ensure that the issues of principal concern to it are dealt with in a methodical and informative manner. For this purpose the Committee has substantially revised its reporting guidelines with a view to assisting States in the reporting process and improving the effectiveness of the monitoring system as a whole. The Committee strongly urges all States parties to report to it in accordance with the guidelines to the greatest extent possible. It notes that, over the course of time, the guidelines adopted at its fifth session (E/1991/23, annex IV) may be revised to take account of its experience therewith.

B. Examination of State parties' reports

1. Work of the pre-sessional working group

22. In its resolution 1988/4 of 24 May 1988, the Economic and Social Council authorized the establishment of a pre-sessional working group prior to each session, subject only to the availability of resources. Since the third session, the pre-sessional working group has met for five days prior to each of the Committee's sessions. It is composed of five members of the Committee nominated by the Chairman, taking account of the desirability of a balanced geographical distribution.

23. The principal purpose of the working group is to identify in advance the questions which might most usefully be discussed with the representatives of the reporting States. The aim is to improve the efficiency of the system and to facilitate the task of States' representatives by providing advance notice of the principal issues which might arise in the examination of the reports (E/1988/14, para. 361).

24. It is generally accepted that the complex nature and diverse range of many of the issues raised in connection with the implementation of the Covenant constitutes a strong argument in favour of providing States parties with the possibility of preparing in advance to answer some of the principal questions arising out of their reports. Such an arrangement also enhances the likelihood that the State party will be able to provide precise and detailed information.

25. In terms of its own working methods, the working group, in the interests of efficiency, allocates to each of its members initial responsibility for undertaking a detailed review of a specific number of reports and for putting before the group a preliminary list of issues. The decision as to how the reports should be allocated for this purpose is based in part on the preferred areas of expertise of the member concerned. Each draft is then revised and supplemented on the basis of observations by the other members of the group and the final version of the list is adopted by the group as a whole. This procedure applies equally to both initial and periodic reports.

26. In preparation for the pre-sessional working group, the Committee has asked the secretariat to place at the disposal of its members a country file containing information relevant to each of the reports to be examined. For this purpose the Committee invited all concerned individuals, bodies and non-governmental organizations to submit relevant and appropriate documentation to the secretariat. It has also asked the secretariat to ensure that certain types of information are regularly placed in the relevant files.

27. The lists of issues drawn up by the working group are given directly to a representative of the States concerned, along with a copy of the Committee's most recent report and with a note stating, inter alia, the following:

> "The list is not intended to be exhaustive and it should not be interpreted as limiting or in any other way prejudging the type and range of questions which members of the Committee might wish to ask. However, the working group believes that the constructive dialogue which the Committee wishes to have with the representatives of the State party can be facilitated by making the list available in advance of the Committee's session."

28. In order to improve the dialogue that the Committee seeks, it asks States parties to provide in writing, if possible, the replies to the list of issues drawn up by the pre-sessional working group and to do so sufficiently in advance of the session at which their respective reports will be considered.

29. In addition to the task of formulating the lists of questions, the pre-sessional working group is also entrusted with a variety of other tasks designed to facilitate the work of the Committee as a whole. These have in the past included: discussing the most appropriate allocation of time for the consideration of each State report; considering the issue of how best to respond to supplementary reports containing additional information; examining draft general comments; considering how best to structure the day of general discussion; and other relevant matters.

2. Presentation of the report

30. In accordance with the established practice of each of the United Nations human rights treaty monitoring bodies, representatives of the reporting States are entitled, and indeed are strongly encouraged, to be present at the meetings of the Committee when their reports are examined. The following procedure was followed in this regard at the Committee's seventh session. The representative of the State party was invited to introduce the report by making brief introductory comments and responding to the list of issues drawn up by the pre-sessional working group. A period of time was then allocated to enable the representatives of the specialized agencies to provide the Committee with any observations relevant to the report under consideration. During the same period, members of the Committee were invited to put questions and observations to the representative of the State party. A further period of time, preferably not on the same day, was then allocated to enable the representative to respond, as precisely as possible, to the questions asked. It was generally understood that questions that could not adequately be dealt with in this manner could be the subject of additional information provided to the Committee in writing.

31. The final phase of the Committee's examination of the report consists of a period during which members are invited to offer any concluding observations they wish to make on the basis of all the information available to them. Rather than taking place on the same day as the final set of replies by the representative of the State party, this final phase is held at least one day later, in order to provide adequate time for members to reflect on the information provided and to reach a balanced evaluation. To facilitate the process the Chairman requests a particular member to take initial responsibility for drafting a text which reflects the views of the Committee as a whole. The agreed structure of the concluding observations is as follows: an introduction of a general nature, a section on progress achieved, another on factors and difficulties impeding the application of the Covenant, one on the principal subjects of concern, and a final one including suggestions and recommendations addressed to the State party. The Committee then discusses the draft with a view to adopting it by consensus. This final phase of the consideration of the report does not involve the representative of the State party. Once the concluding observations are adopted, they are forwarded to the State party concerned and included in the Committee's report. If it so wishes, the State party might address any of the Committee's concluding observations in the context of any additional information that it provides to the Committee.

32. When considering reports based on the previous reporting cycle and dealing with only three articles of the Covenant, the Committee has endeavoured to make the most of the very limited time available in which to undertake a constructive and mutually rewarding dialogue with the representative of the States parties. This has generally involved an effort to remain within a time-limit for each phase of the examination, on the basis that only one meeting (three hours) can generally be devoted to each report.

33. The Committee decided at its fourth session that its consideration of the global reports which States parties were beginning to submit in accordance with the new five-year periodicity would necessitate the allocation of

considerably more time for each phase of the examination. It was agreed in general that on the basis of the time (three hours) allocated at present for the consideration of the equivalent of one third of a global report, and in line with the practice of the Human Rights Committee, up to a total of three meetings would be allocated for each global report. While recognizing that it might wish, in the light of future experience, to revise its approach, the Committee agreed to allocate the following indicative times for each phase: up to 30 minutes of general introductory comments by the representative of the State party; up to 2 hours for the representative to respond to the list of written questions; up to 3 hours for observations by representatives of the specialized agencies and questions by members of the Committee; up to 2 hours for further replies by the State party; and up to 1 hour, on a subsequent day, for adoption of the Committee's concluding observations.

Deferrals of the presentation of reports

34. The Committee has emphasized that deferral should only be sought in extreme circumstances. Where deferral is considered to be unavoidable it should be done on the basis of at least three months' notice. Moreover, in any case, the Committee would greatly appreciate receiving an explanation of the reasons for deferral.

35. The Committee decided at its fifth session that on the third occasion that a State party's report is scheduled for consideration (i.e. after two deferrals), it would normally proceed with the consideration of the report whether or not a representative of the State party is able to be present. The Committee has also noted that it may, in appropriate cases in which there are strong reasons for so doing, decide to proceed with the examination of a report despite a request by a State for a deferral.

C. Procedures in relation to follow-up action

36. In situations in which the Committee considers that additional information is necessary to enable it to continue its dialogue with the State party concerned, there are several options that might be pursued:

(a) The Committee might note that specific issues should be addressed in a detailed manner in the State party's next periodic report, which would normally be due in five years' time;

(b) The Committee might take note specifically of the State party's stated intention to submit additional information in writing, particularly in response to questions posed by the members of the Committee;

(c) The Committee might specifically request that additional information, relating to matters that it would identify, be submitted to the Committee within six months, thus enabling it to be considered by the pre-sessional working group. In general, the working group could recommend one or another of the following responses to the Committee:

(i) That it take note of such information;

(ii) That it adopt specific concluding observations in response to that information; or

(iii) That the matter be pursued through a request for further information. The fourth possibility would be for the working group to make a recommendation to the Committee's Chairperson that the State party be informed that the Committee would take up the issue at its next session and that, for that purpose, the participation of a representative of the State party in the work of the Committee would be welcome. In such a case, the Chairperson would be authorized to notify the State party accordingly, in advance of the next session of the Committee;

(d) The Committee might determine that the receipt of additional information is urgent and request that it be provided within a given time limit (perhaps 2-3 months). In such a case the Chairperson, in consultation with the members of the Bureau, could be authorized to follow up on the matter with the State party if no response is received or if the response is patently unsatisfactory.

37. In situations in which the Committee considers that it is unable to obtain the information it requires on the basis of the above-mentioned procedures, it may decide to adopt a different approach instead. In particular, the Committee might, as has already been done in connection with two States parties, request that the State party concerned accept a mission consisting of one or two members of the Committee. Such a decision would only be taken once the Committee had satisfied itself that there was no adequate alternative approach available to it and that the information in its possession warranted such an approach. The purposes of such an on-site visit would be: (a) to collect the information necessary for the Committee to continue its constructive dialogue with the State party and to enable it to carry out its functions in relation to the Covenant; and (b) to provide a more comprehensive basis upon which the Committee might exercise its functions in relation to articles 22 and 23 of the Covenant relating to technical assistance and advisory services. The Committee would state specifically the issue(s) in relation to which its representative(s) would seek to gather information from all available sources. The representative(s) would also have the task of considering whether the programme of advisory services administered by the Centre for Human Rights could be of assistance in relation to the specific issue at hand.

38. At the conclusion of the visit the representative(s) would report to the Committee. In light of the report presented by its representative(s) the Committee would then formulate its own conclusions. Those conclusions would relate to the full range of functions carried out by the Committee, including those relating to technical assistance and advisory services. In a case in which the State party concerned does not accept the proposed mission, the Committee would consider making whatever recommendations might be appropriate to the Economic and Social Council.

D. Procedure in response to non-submitted and considerably overdue reports

39. The Committee believes that a situation of persistent non-reporting by States parties risks bringing the entire supervisory procedure into disrepute, thereby undermining one of the foundations of the Covenant.

40. Accordingly, the Committee resolved at its sixth session to begin in due course to consider the situation concerning the implementation of the Covenant in respect of each State party whose initial or periodic reports were very significantly overdue. At its seventh session it resolved to begin scheduling consideration of such reports at its future sessions and to notify the States parties concerned.

41. The Committee has adopted the following procedure:

(a) To select States parties whose reports are very considerably overdue on the basis of the length of time involved;

(b) To notify each such State party that the Committee intends to consider the situation with respect to that country at a specified future session;

(c) To move, in the absence of any report, to consider the status of the economic, social and cultural rights in the light of all available information;

(d) To authorize its Chairperson, in situations where the State party concerned indicates that a report will be provided to the Committee and upon a request from the State party, to defer consideration of the situation for one session but not longer.

E. General discussion

42. At its second session the Committee decided (E/1988/14, para. 365) that at each of its future sessions it would devote one day, during the final week of its session, to a general discussion of one specific right or a particular aspect of the Covenant in order to develop in greater depth its understanding of the relevant issues. The discussion would take account of relevant information contained in the reports of States parties and of any other relevant material. The Committee agreed that at both its third and fourth sessions the focus of its discussions would be on the rights contained in article 11 of the Covenant. At its third session the principal emphasis was on the right to adequate food, while the right to housing was the main emphasis at the fourth session. At its sixth session, the focus was on economic and social indicators pertaining to the work of the Committee. At its seventh session, the focus was on the right to take part in cultural life, as recognized in article 15 of the Covenant. At its eighth session the subject will be the rights of the aging and elderly in relation to the rights recognized in the Covenant. For that purpose, it authorized the participation of representatives of appropriate international agencies, individual experts and others in its discussions.

43. In the context of its general discussions the Committee sought to draw as widely as possible on any available expertise which would assist it in its endeavours to develop a deeper understanding of the central issues. In that regard it attached particular importance to the recommendation adopted by the meeting of the persons chairing the human rights treaty bodies convened pursuant to General Assembly resolution 42 105 of 7 December 1987, to the effect that "the treaty bodies should consider establishing procedures designed to facilitate regular meetings with relevant special rapporteurs of the Commission on Human Rights or the Sub-Commission on Prevention of Discrimination and Protection of Minorities who are working on directly relevant subjects, whenever this would be useful" (A/44/98, para. 95).

44. Accordingly, the Committee invited Mr. Asbjørn Eide, the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the right to adequate food as a human right, to participate in the general discussion at its third session. Similarly, Mr. Danilo Türk, the Sub-Commission's Special Rapporteur on the realization of economic, social and cultural rights, was invited to participate in the general discussion at its fourth session. In both cases the resulting exchange of views proved to be particularly rewarding and a summary of the discussions which took place was included in the Committee's reports.

45. The Committee also sought to draw upon the expertise of the relevant specialized agencies and United Nations organs both in its work as a whole and, more particularly, in the context of its general discussions. In this regard representatives of ILO, FAO, WHO, UNDP, UNRISD, UNESCO and the United Nations Centre for Human Settlements (Habitat) have all made informative and constructive contributions to its deliberations.

46. In addition, the Committee has invited a variety of experts who have a particular interest in, and knowledge of, some of the issues under review, to contribute to its discussions. These contributions have added considerably to its understanding of some aspects of the questions arising under the Covenant.

F. General comments

47. In response to an invitation addressed to it by the Economic and Social Council in paragraph 9 of resolution 1987/5, the Committee decided at its second session (E/1988/14, para. 367) to begin, as from its third session, the preparation of general comments based on the various articles and provisions of the International Covenant on Economic, Social and Cultural Rights with a view to assisting the States parties in fulfilling their reporting obligations.

48. By the end of its seventh session the Committee and the Sessional Working Group of Governmental Experts which existed prior to the creation of the Committee had examined 144 initial reports, 61 second periodic reports concerning rights covered by articles 6 to 9, 10 to 12 and 13 to 15 of the Covenant and 6 global reports. This experience covered a significant number of States parties to the Covenant, which consisted of 118 States at the end of the seventh session. They represented all regions of the world, with different political, legal, socio-economic and cultural systems. Their reports submitted so far illustrated many of the problems which might arise in

implementing the Covenant although they had not yet provided any complete picture as to the global situation with regard to the enjoyment of economic, social and cultural rights.

49. The Committee endeavours, through its general comments, to make the experience gained so far through the examination of those reports available for the benefit of all States parties in order: to assist and promote their further implementation of the Covenant; to draw the attention of the States parties to insufficiencies disclosed by a large number of reports; to suggest improvements in the reporting procedures and to stimulate the activities of the States parties, the international organizations and the specialized agencies concerned in achieving progressively and effectively the full realization of the rights recognized in the Covenant. Whenever necessary, the Committee may, in the light of the experience of States parties and of the conclusions which it had drawn therefrom, revise and update its general comments.

50. At its third session the Committee adopted General Comment No. 1 (1989), which dealt with reporting by States parties (see E/1989/22, annex III). At its fourth session the Committee adopted General Comment No. 2 (1990), which dealt with international technical assistance measures (art. 22 of the Covenant) (E/1990/23, annex III). At its fifth session the Committee adopted General Comment No. 3 (1990), which dealt with the nature of States parties' obligations (art. 2 (1) of the Covenant) (E/1991/23, annex III). At its sixth session the Committee adopted General Comment No. 4 (1991), which dealt with the right to adequate housing (art. 11 (1) of the Covenant) (E/1992/23, annex III). At its seventh session the Committee began consideration of a draft general comment on the rights of the aging and elderly.

Chapter IV

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

51. In accordance with rule 58 of its rules of procedure, the Committee at its 22nd meeting, held on 10 December 1992, considered the status of submission of reports under articles 16 and 17 of the Covenant.

52. In that connection, the Committee had before it the following documents:

(a) Note by the Secretary-General on the revised general guidelines regarding the form and contents of reports to be submitted by States parties (E/C.12/1991/1);

(b) Note by the Secretary-General on States parties to the Covenant and the status of submission of reports as at 1 October 1992 (E/C.12/1992/2).

53. The Secretary-General informed the Committee that in addition to the reports scheduled for consideration by the Committee at its seventh session (see para. 55 below), he had received, as at 1 December 1992, the reports submitted under articles 16 and 17 of the Covenant by the following States parties: the initial report on articles 6 to 9 of Senegal (E/1984/6/Add.20); second periodic reports on articles 13 to 15 of Ukraine (E/1990/7/Add.11), Germany (E/1990/7/Add.12), Australia (E/1990/7/Add.13); initial reports on articles 1 to 15 of Iceland (E/1990/5/Add.6), Uruguay (E/1990/5/Add.7) the Islamic Republic of Iran (E/1990/5/Add.9) and Viet Nam (E/1990/5/Add.10); second periodic reports on articles 1 to 15 of Canada (E/1990/6/Add.3) and Mexico (E/1990/6/Add.4).

54. In accordance with rule 57, paragraph 1, of the Committee's rules of procedure, a list of States parties together with an indication of the status of submission of their reports is contained in annex I to the present report. In accordance with rule 57, paragraph 2, the Committee had made a number of recommendations to the Economic and Social Council which are included in chapter X of the present report.

Chapter V

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

55. At its seventh session, the Committee examined five reports submitted by five States parties under articles 16 and 17 of the Covenant. It devoted 15 of the 23 meetings it held during the seventh session to the consideration of these reports (E/C.12/1992/SR.2-7, 9, 12-16, 20, 21 and 23). The following reports, listed in the order in which they had been received by the Secretary-General, were before the Committee at its seventh session:

Initial reports concerning articles 10 to 12 of the Covenant

Nicaragua	E/1986/3/Add.15

Second periodic reports concerning articles 13 to 15 of the Covenant

Belarus	(E/1990/7/Add.5)
Czech and Slovak Federal Republic	(E/1990/7/Add.6)
Norway	(E/1990/7/Add.7)
Russian Federation	(E/1990/7/Add.8)
Poland	(E/1990/7/Add.9)
Hungary	(E/1990/7/Add.10)

Initial reports concerning articles 1 to 15 of the Covenant

New Zealand	E/1990/5/Add.5
New Zealand (Tokelau)	E/1990/5/Add.11
New Zealand (Niue)	E/1990/5/Add.12

Second periodic reports concerning articles 1 to 15 of the Covenant

Italy	E/1990/6/Add.2

56. At its 1st meeting, held on 23/November/1992, the Committee agreed, at the request of the Governments concerned, to postpone to its eighth session consideration of the initial report of Nicaragua (E/1986/3/Add.15) concerning articles 10 to 12 of the Covenant, the second periodic report of the Russian Federation (E/1990/7/Add.8) concerning articles 13 to 15 of the Covenant and the initial reports of New Zealand (E/1990/5/Add.5, 11 and 12) concerning articles 1 to 15 of the Covenant. At the same meeting the Committee was informed that the Government of the Czech and Slovak Federal Republic withdrew its second periodic report (E/1990/7/Add.6) concerning articles 13 to 15 of the Covenant.

57. In accordance with rule 62 of the Committee's rules of procedure, representatives of all the reporting States were invited to participate in the meetings of the Committee when their reports were examined. All the States parties whose reports were considered by the Committee sent representatives to participate in the examination of their respective reports. In accordance

with a decision adopted by the Committee at its second session, the names and positions of the members of each State party's delegation are listed in annex V to the present report.

58. Rule 57 of its rules of procedure provides that the Committee should include in the report of its activities summaries of its consideration of the reports submitted by States parties to the Covenant. Accordingly, the following paragraphs, arranged on a country-by-country basis according to the sequence followed by the Committee in its consideration of the reports, contain summaries based on the records of the meetings at which the reports were considered. Fuller information is contained in the reports submitted by the States parties and in the summary records of the relevant meetings of the Committee.

Belarus (arts. 13-15)

59. The Committee considered the second periodic report of Belarus concerning articles 13 to 15 of the Covenant (E/1990/7/Add.5) at its 2nd, 3rd and 12th meetings on 23 and 24 November and 2 December 1992 (E/C.12/1992/SR.2, 3 and 12).

60. In his introductory statement, the representative of the State party said that important political and economic changes had occurred in his country since 25 August 1991, when the Supreme Soviet of Belarus had proclaimed the sovereignty of the Republic. As from December 1991, when the 1992 Treaty establishing the Soviet Union had been superseded by the Agreement establishing the Commonwealth of Independent States, the Supreme Soviet of Belarus had initiated legislative action in all spheres of public life. Thus, at its session in October 1992, the Supreme Soviet had had before it a draft constitution, together with various bills relating to the rights of children, state assistance to families and children of school age, the minimum wage and the conservation of the cultural and historical heritage.

61. The weakening, not to say disappearance, of the economic links between the various States of the Soviet Union had had an adverse effect on the overall economic situation of Belarus: the national income had fallen by 15 per cent and production had collapsed in many industrial and agricultural sectors; 52,500 people had been without work at the beginning of September 1992, and 23 per cent of them had been given unemployed status. He emphasized that, despite the difficult situation experienced by his country in this transitional period, his Government was, in its legislative action, taking into account the international obligations incumbent on Belarus under the various international treaties, and in particular the International Covenant on Economic, Social and Cultural Rights.

General observations

62. The members of the Committee requested information on the new political structure of Belarus and the new legal framework within which human rights were safeguarded. They wished to know: what value was attached in domestic law to the rights embodied in the Covenant; what had been the repercussions, de jure and de facto, of the current political and economic transition on the

exercise of economic, social and cultural rights; what practical measures the Belarusian Government had taken in support of particularly vulnerable and disadvantaged groups in the present economic situation; to what extent the rights embodied in articles 13 to 15 were guaranteed to non-nationals; and what percentage of the State's overall budget was allocated to education and cultural activities.

63. Some members of the Committee wished to know: whether Belarus really had sufficient means to provide free education at all levels; what was the role of the Russian language in the areas of education and culture, on television and in the cinema; what procedures were available to a private individual to secure recognition and effective enjoyment of his rights when he considered that they had been infringed; and whether the exercise of the rights set forth in articles 13 to 15 of the Covenant was subject to any restriction.

64. Replying to the general questions, the representative of the State party said that the population of Belarus was more than 10 million, of whom about 80 per cent were Belarusians. In addition, the population comprised about 1.2 million Russians, 450,000 Ukrainians, 400,000 Poles and other nationalities. The role of the Russian language was not likely to decline because 90 per cent of the population spoke Russian and the majority of the population of Belarus spoke Russian better than Belarusian. To remedy that situation, two solutions had been envisaged: giving official-language status only to Belarusian or giving it to both languages, Belarusian and Russian. As regards the status of aliens, he said that, under article 11 of the Constitution, they enjoyed the same rights and had the same duties as Belarusian citizens. If national legislation was at variance with the international treaties ratified by Belarus, the provisions of the latter would prevail. At present 10 per cent of the national budget was devoted to education and at least 3 per cent of the budget was to be devoted to the development of cultural activities.

Articles 13 and 14: Right to education

65. The members of the Committee asked: whether the principle of free education had been maintained at all levels of education; what was the minimum age for pre-school education, and what changes had occurred since submission of the written report; what precisely was the function of out-of-school education, which had been described as a key element in the country's education system; what were the differences between complete secondary education and incomplete secondary education; what was the number of pupils, by sex, at all levels of the education system. They also requested more detailed information on the salaries of teachers at all levels and on the possibility for teachers to organize in order to safeguard their professional interests.

66. In addition, some members of the Committee wished to know: whether in Belarus there were any illiterates or adults including the elderly with very little education and, if so, what opportunities the education system gave them; what was the proportion of schoolchildren who completed primary education and went on to secondary education, and that of young people who went on to higher education after secondary education. Noting that in many former socialist countries school curricula had had a substantial ideological

content, they asked: whether, once that ideology had been abandoned, there had been plans to revise curricula and textbooks at all levels in the light of the internationally recognized standards; if that was the case, what problems had been encountered and whether the cooperation of other countries had been sought in that connection.

67. Some members wished to know: whether it was possible, in legal terms, to open private institutions at the three levels of education and what was the attitude of the Government to private education; whether freedom of religion had facilitated religious and moral education in schools, and whether there had been an increase in demand from parents for such education for their children. Some members requested further information: on the maintenance of foreign students from developing countries; and on measures taken, possibly through international cooperation, to give those students the means of continuing their studies in Belarus and hence continuing to enjoy their right to education. They also wished to know whether any new universities or faculties had been founded recently, and what had become of the academic autonomy of institutions of higher education in the new conditions prevailing in Belarus.

68. Replying to the questions asked about the implementation of articles 13 and 14 of the Covenant, the representative of the State party said that article 5 of the Belarusian Education Act proclaimed the right of citizens to free education in the ordinary state schools, and in certain other institutions for persons who had passed a particular examination or met certain criteria. However, in view of the decline in budgetary resources resulting from the fall in production, the authorities were endeavouring to reduce expenditure on education. They therefore had the intention to introduce fees for education in the tenth and eleventh grades. In the Republic of Belarus, pupils followed the full cycle of compulsory basic education, which was nine years. After the ninth year, about 12 per cent of the pupils went on to specialized educational institutions; 30 per cent went to vocational and technical training institutes; and about 50 per cent continued their studies in the tenth year, following a general secondary education; 20 to 25 per cent of the latter continued their education in institutions of higher education. He described the system of non-school educational institutions, where more than 300,000 children continued their studies. The first private schools had begun to operate in Belarus. Those schools were accessible only to children of well-off families, since the average monthly wage was 5,777 roubles, whereas the average monthly fee for a private school was 6,000 roubles. The Government considered that private schools helped to raise the level of education, although the tuition given in them had to comply with all government requirements. There were no private universities or technical institutions.

69. The representative stated that the literacy rate in Belarus was very high. In Belarus the elderly had access to education in evening classes and through the highly developed system of correspondence courses. Unfortunately, the introduction of a market-economy system was likely to have a negative impact on the accessibility of those traditional forms of education to the elderly. Education was being depoliticized. Purely ideologically oriented subjects had been dropped from the curricula. As regards teachers' salaries, the Government had taken appropriate measures, inter alia, raising them by

50 per cent on 15 September 1992. In October 1992, the Supreme Soviet had promulgated a law which provided that, in technical education, a teacher's salary should not be less than the remuneration of a comparable employee in industry (at present, about 5,500 roubles).

70. As for foreign students, the representative said that as many as 5,000 to 6,000 foreigners, especially from Africa, studied in Belarus. In the past their education had been free of charge, and no payment had been required for housing. Currently, due to the financial difficulties which had arisen as a result of the entry of Belarus into the market economy, institutions of higher education had decided to charge fees for foreign citizens, but those fees were considerably lower than in other countries. In spite of this, there had even been an increase in the number of foreign students from countries such as China and Turkey.

71. A number of new institutions of higher education had recently been created, especially for specialized training and training in the field of management and marketing in response to the changeover by Belarus to a market economy. The number of students in higher education had not fallen despite financial difficulties. Institutions of higher education had been granted substantial autonomy. Rectors and professors were appointed by the academic staff in a secret ballot. The atmosphere in the universities was normal, although protests sometimes occurred over the low salaries.

Article 15: Right to take part in cultural life and to enjoy the benefits of scientific progress and to benefit from the protection of the interests of authors

72. Having noted that during the consideration of the initial report reference had been made to the existence of "banned categories" of books and publications, the members of the Committee asked whether the political changes which had occurred in recent years had been reflected in liberalization enabling those categories to be eliminated and in greater freedom of creative activity in general. They wished to know: whether censorship had been abolished and what measures had been adopted (a) to give effect to the right of everyone to enjoy the benefits of scientific progress and its applications, and (b) to guarantee the right of everyone to protection of the moral and material interests originating from any scientific, literary or artistic product of which they were the originator. Members requested further information: on the legal, administrative and judicial regimes established to ensure respect for, and protection of, the freedom essential for scientific research and creative activities; on the situation of the ethnic and language minorities and their opportunities for effective enjoyment of the rights enunciated in articles 13 to 15 of the Covenant; on the measures through which the Government of Belarus promoted and developed international cooperation in the scientific and cultural spheres.

73. In addition, members of the Committee wished to know whether legislative and other measures had been taken to protect the environment and also thereby to guarantee the rights enunciated in article 15 of the Covenant and whether appropriate opportunities were given to adults and elderly persons in the area of cultural activities and leisure.

74. Responding to members' questions and comments, the representative of the State party said that the Culture Act of the Republic of Belarus, adopted on 4 June 1991, was intended to guarantee the sovereign rights of the Republic in the area of culture and respect for the principles of ideological and political independence, and to establish the institutions necessary for the free development of culture and to ensure their financing. In addition, freedom of artistic creation, cultural pluralism, the free access of all to the values of culture and the protection of intellectual property were guaranteed. Priority had been given to the development of Belarusian culture, while taking account of the culture of other nationalities. The substantial subsidies for culture, which had been customary in the past, would be maintained. Thus, the Culture Act provided for 3 per cent of the national budget to be devoted to subsidies for cultural activities.

75. He stated that the process of democratization in Belarus had permitted the abolition of censorship and lists of banned books. As regards the right of minorities to use their own language, article 10 of the Act on the use of languages in the Republic of Belarus guaranteed the right of everyone to develop their culture in their own language, and to use it in schools and in all cultural activities.

76. The representative stated that Chernobyl had been a great disaster and an enormous obstacle to normal development. Although the disaster had not taken place on its territory, Belarus had suffered 50 per cent of the total damage and the after-effects had not yet been fully ascertained. The international aid received after the catastrophe had been very useful and greatly appreciated. At the same time, he noted that the financial and material aid provided by the United Nations and UNESCO had not been adequate. As regards international cooperation, Belarus was currently in the process of negotiating cultural cooperation agreements with various countries, including Germany, Italy, France, Slovenia, Poland, Turkey and China.

Concluding observations

77. The Committee expressed its appreciation to the State party both for the written report and for the presentation of the report by a high-ranking delegation. In view of the fact that the written report dated back to 1989, it was only through the oral introduction and the replies given by the delegation that the Committee was able to get a somewhat clearer picture of how the profound changes in the political and economic situation of Belarus were affecting the enjoyment of the right to education and the right to participation in the cultural life of Belarus. The Committee commended the State party for the timely submission of its report despite the grave economic difficulties which it was facing. The Committee considered it particularly important that States parties which, like Belarus, found themselves in a period of transition towards a market economy performed their reporting obligations in a timely and thorough manner because it was precisely the enjoyment of economic, social and cultural rights by the more vulnerable part of the population which was prone to be adversely affected during such difficulties of transition.

78. For the Committee to obtain a clear picture in that regard, it was necessary, however, that the information presented be specific, precise, transparent, supplemented by meaningful statistics, focused on difficulties encountered and stressing the dynamics of the new developments. From that point of view, both the written report and its introductory updating left the Committee dissatisfied in a number of respects. As already mentioned, the written report itself must be considered in large part obsolete. The supplemental information provided in the oral part of the Committee's proceedings could only partly compensate for this shortcoming. The oral information was not sufficiently comprehensive, sometimes subjective in nature and not adequately supported by reliable statistical data. Hence, it was very difficult for the Committee to engage in a meaningful dialogue with the delegation focusing on concrete and tangible points. The Committee arrived at the overall impression that the Government of Belarus was engaging in a serious effort to preserve its noteworthy achievements in the fields covered by the report under the new economic circumstances while at the same time opening up education and culture to a freer exchange of ideas. The Committee found it impossible, however, to discern the more exact contours and features of those changes from the piecemeal information given. Among the problems that could be identified despite the difficulties referred to, the Committee noted with particular concern the intention of the Government of Belarus to introduce fees for education in tenth and eleventh grades.

79. In view of the fact that Belarus was scheduled to submit its third periodic report on articles 1 to 15 of the Covenant by 30 June 1994, the Committee decided not to request the additional information which it would otherwise have considered necessary.

Norway (arts. 13-15)

80. The Committee considered the second periodic report of Norway concerning articles 13 to 15 of the Covenant (E/1990/7/Add.7) at its 4th, 5th and 12th meetings, held on 25 November and 2 December 1992 (E/C.12/1992/SR.4, 5 and 12).

81. In introducing the report the representative of the State party said that in 1989 a committee of lawyers had been appointed to study the possibility of incorporating international human rights treaties to which Norway was a party into Norwegian legislation. A report had been prepared by the committee but had not yet been made available to the public.

Articles 13 and 14: Right to education

82. Members of the Committee requested information on the implementation of articles 13 and 14 of the Covenant, in particular: on the development and impact of vocational training and apprenticeship systems; on the level of the school drop-out and unemployment rates among young people; on the percentage of boys and girls attending vocational training institutions; and on the extent to which equality of access by girls to vocational training was guaranteed.

83. Members also wished to know: what steps had been taken to provide basic education to adult refugees and immigrants; how the children of migrants were integrated into the education system; whether the demands for native language education for minority groups were being fully met and what was being done to tackle the problem of the lack of qualified staff and whether equality of access to higher education, especially for those groups which had previously experienced limited access, had been achieved.

84. Additionally, members of the Committee wished to know: what special educational or vocational training and employment measures existed for the elderly and for unemployed adults; whether teachers had the right to strike; and how the salaries and conditions of work of teachers compared to those of staff in comparable posts in the public and private sectors. Further information was also requested regarding the collective bargaining system used for negotiating the terms and conditions of the employment of teachers and whether an arbitration procedure existed.

85. In her reply, the representative of the State party pointed out, inter alia, that during the 1980s the upper secondary education system had been considerably expanded, with 75 per cent of new places occurring in vocational training. There was a strong focus on developing apprenticeship training and on encouraging employers to recruit apprentices. Those measures had resulted in a considerable increase in the number of apprentices, in vocational training and in a growing percentage of young people in the 16 to 19 age group attending upper secondary school. The Government had taken new initiatives in 1992 to encourage employers to recruit additional apprentices. The State had also continued to give grants to the counties, which were responsible for upper secondary education, to provide for extra classes and the authorities organized vocational courses directed specifically at the labour market. In January 1991, 11,500 young people between the ages of 16 and 19 had registered for such courses compared to 3,900 in 1981.

86. Additionally, the representative drew attention to the reform of upper secondary education which was to be introduced in 1994 and which, inter alia, would provide for: the introduction of a legal right to three years' upper secondary education for everyone aged between 16 and 19, with a corresponding obligation on the part of local or regional authorities to provide an adequate number of places; the introduction of a legal obligation for the local authorities to establish follow-up services for young people not in employment or in vocational training so that all young people would have the opportunity to acquire an education leading to a recognized qualification; and the introduction of a new model, combining two years at school with subsequent training in the workplace, for trades recognized under the Vocational Training Act.

87. Responding to concerns that apprenticeship programmes should not be used as a means of exploitation, the representative pointed out that apprenticeship was governed by legislation and that committees composed of education administrators, employers, employees and apprentices had been set up to supervise the fulfilment of apprenticeship contracts. Apprentices were well paid, partly through employers and partly through State contributions.

88. Concerning school drop-out rates and unemployment levels among young people, the representative explained that all pupils were offered education adapted to their abilities up to the age of 16, when compulsory school ended. All pupils took final examinations. Most pupils transferred to upper secondary education. Unemployment in the 16 to 19 age group was relatively low since that age group was given high priority in the labour market. In September 1992 around 4,900 persons were registered as being unemployed, most of whom were 19-year-olds. The unemployment rate in the 16 to 19 age group was 2.3 per cent as compared with the national average unemployment rate of 6.3 per cent.

89. The representative explained that if vocational training was defined as education and training other than general studies, the proportion in 1991 of girls and boys attending vocational training institutions was 44.3 per cent and 55.7, respectively. The proportion of boys and girls within different subject areas had not changed much during the past 15 years. Although there were equal opportunities for boys and girls in vocational education and training, girls and boys tended to choose occupations along traditional gender lines and not according to remuneration. In view of this situation, the Standing Committee on Church and Education in the Storting had recommended that school counselling services should be strengthened to encourage girls to take up occupations traditionally seen as men's.

90. With regard to the education of adult refugees and immigrants, the representative explained that Norwegian policy was based on the principle that all persons who had not completed their basic education, whether or not they were Norwegian, received the same treatment. However, as the Ministry of Education, Research and Church Affairs was particularly concerned that refugees and immigrants be allowed access to basic education on a favourable basis, it had, in 1992, completed a curriculum for basic education adapted to their needs. This curriculum had been distributed to the municipalities for implementation in 1992.

91. The representative indicated that the National Curriculum Guidelines for Compulsory Education of 1987 laid down the principles by which the children of migrants were integrated into the education system. The Guidelines stated, for example, that children of migrants and refugees should be prepared for life in Norwegian society and should receive instruction in Norwegian. However, these children also had the opportunity to maintain and develop their own cultural identity through mother tongue education and the Ministry provided direct grants to local authorities to ensure adequate facilities for such teaching.

92. In the case of minority groups, the representative stated that in 1991-1992, 75 to 80 per cent of children in compulsory education received teaching in their native language and that some 80 different tongues were taught in Norwegian schools. Although such teaching was not always requested and qualified teachers for some languages were difficult to find, high priority was being given to special teacher training.

93. With regard to the steps taken to ensure equal access to higher education for groups which had hitherto had limited access to such education, the representative stated that it had been the Government's policy in recent years to increase the number of students both men and women, of all ages and at all levels of higher education. The large number of institutions of higher education throughout the country and the extra resources channelled into such education had contributed positively to such development.

94. Concerning the provision of adult education courses, the representative explained that such education was available and accorded high priority. There was a vast range of courses suited to the needs of persons wishing to supplement their existing qualifications. In certain cases, the courses were organized in cooperation with universities or other institutions of higher education.

95. As regards the situation of the elderly, the representative indicated that this group, like the rest of the population, could enrol in courses of their choice and that numerous activities and benefits were available to them.

96. The representative informed the Committee that general matters such as the terms and conditions of employment of civil servants, including teachers, were negotiated between the unions and the Ministry of Labour and Government Administration. Teachers had the right to strike. Negotiations with regard to working conditions within the school system were conducted between individual teachers' unions and the Ministry of Education, Research and Church Affairs. Current issues under discussion were the number of working hours per school year of teachers and the requirement for teachers to spend non-teaching time at school. An arbitration system did exist and could be used when negotiations failed. The salaries and conditions of work of teachers in comparison with staff in comparable posts in the public and private sectors varied depending on the teacher's qualification and the sector concerned. From 1993, basic teacher training would be extended from three to four years and achievement of adjunkt status, which carried a higher salary, would be automatic. Although on average the salaries of the teaching profession had lagged behind other sectors in the early 1980s, they had increased between 1987 and 1990 at a rate 1.8 per cent higher than those of other groups.

Article 15: Right to take part in cultural life and to enjoy the benefits of scientific progress and to benefit from the protection of the interests of authors

97. Members of the Committee wished to know: whether there were any serious regional disparities in regard to access to culture and cultural facilities; what specific measures had been taken to enable the Sami people to safeguard and develop their culture since the amendment of the Constitution in 1988; whether minority groups other than the Sami benefited from such special measures; and what weight was given to culture in development plans and what was the percentage of resources allocated to it. Members of the Committee also wished to know whether Norway maintained scientific and cultural cooperative relations with non-European countries and how it reconciled its position on the environment with its attitude towards whaling.

98. In response, the representative of the State party explained that there were no serious regional disparities with regard to culture and cultural facilities since the decentralization of cultural facilities which had been pursued by the Government for the last 20 years was largely completed.

99. Turning to specific initiatives implemented on behalf of the Sami people since 1987, the representative stated that affirmative action for the benefit of the Sami people was part of official policy. In addition to legal provisions, financial and organizational measures had been taken to implement that policy. One initiative, introduced in December 1990, had given Sami speakers the right to use their language in dealings with local and regional authorities. Special arrangements had also been made to facilitate that practice and approximately Nkr 200 million were allocated each year in direct State support for various activities and institutions. Special treatment for foreigners comparable to that of the Sami did not exist.

100. With regard to the weight given to culture in development plans, the representative informed the Committee that in 1992, the Ministry of Cultural Affairs had undertaken a survey of the aims of government policy in the cultural field. The representative also made reference to the United Nations World Decade for Cultural Development, proclaimed by the General Assembly in its resolution 41/187 of 8 December 1986, a major objective of which was the acknowledgement of the cultural dimension of development, as well as to Norway's active participation in the Decade. She also noted that on the initiative of Norway and other Nordic countries a World Commission on Culture and Development was to be established by the end of 1992, under the joint auspices of UNESCO and the United Nations. She pointed out that it was difficult to specify the percentage of government resources devoted to cultural uses as such funds were administered by several different ministries.

101. Concerning Norway's scientific and cultural cooperative relations, the representative pointed out that, in the main, such involvement was conducted either through bilateral and multilateral agreements or through participation in, or membership of, international organizations and conferences and their various committees, subgroups and projects. Norway was actively involved in research related to the developing countries and in exchange programmes linked to schools and institutions of higher education. In the latter case, coordination was conducted through the Centre for International University Cooperation. The Centre, in cooperation with the Norwegian Ministry of Foreign Affairs, also helped administer a special programme of institutional cooperation with developing countries.

102. Concerning environmental and whaling issues, the representative said that States had the right to exploit their national resources consistent with their policies on the environment but emphasized the Government's view that the conservation of all species threatened with extinction or near extinction had to be ensured.

Concluding observations

103. The Committee welcomed the constructive dialogue between its members and Norway's government delegation.

104. While it observed that the report submitted by the Government was too brief, general and at variance with the guidelines, the Committee none the less noted with great satisfaction the detailed and comprehensive way in which the delegation had answered all the questions prepared by the pre-sessional working group.

105. In the Committee's view, written replies provided before the oral presentation were a useful procedure that could serve as an example for future reports by States parties.

106. Despite general satisfaction at the dialogue between the Norwegian delegation and the Committee, some members wanted further information on the system of apprenticeship training for young people and on the place of the Covenant in Norway's legislation and process of development.

107. The Committee also noted the considerable efforts made by the Government of Norway and expressed the hope that, as promised by the Norwegian delegation, the next periodic report would be prepared in accordance with the reporting guidelines and would point to the various obstacles encountered by Norway in the realization of the rights covered by the Covenant. The Committee requested that specific consideration be given in that report to the question of the comparability of pay in the public and private sectors.

Poland (arts. 13-15)

108. The Committee considered the second periodic report of Poland concerning articles 13 to 15 of the Covenant (E/1990/7/Add.9) at its 6th, 7th and 15th meetings, held on 26 November and 4 December 1992 (E/C.12/1992/SR.6, 7 and 15).

109. The report was introduced by the representative of the State party who explained that during the period under review Poland had undergone fundamental political, economic and social changes. The major part of the report referred to the period ending in 1991, during which Poland had operated under a constitutional order different from the present one. At the time of the preparation of the report, the economic system had been centrally planned and managed, whereas present-day Poland was a democratic State based on the rule of law and on the way to a market economy. A new Constitutional Act had been adopted by Parliament in August 1992 and signed by the President of the Republic. Furthermore, a draft constitutional charter of rights and freedoms had been submitted to Parliament which was founded on the concept of human dignity, proclaimed the protection of the rights enshrined in the international instruments and contained legal and institutional guarantees.

General matters

110. With regard to the general framework within which the Covenant was being implemented, members of the Committee wished to receive information: on the new political structure of the country, in particular its changed economic, social and cultural characteristics; on the impact of the current political and economic transition on the realization of economic, social and cultural rights; on any steps taken by the authorities to fulfil international obligations arising from the Covenant under the present adverse conditions; on

any step undertaken for the benefit of those groups within society whose economic, social and cultural rights were specially being affected in the present situation; on the new legal framework within which human rights were protected; on the status of the rights enshrined in the Covenant in domestic law; on the extent to which non-nationals were guaranteed the rights dealt with in articles 13 to 15 of the Covenant; and on limitations, if any, imposed upon the exercise of the rights set forth in articles 13 to 15, the reasons therefor, and safeguards against abuses in that regard.

111. In addition, members wished to know: what the relationship was between the draft charter of rights and freedoms and the Constitution; whether individuals could invoke provisions of international human rights instruments, in particular the Covenant, before the courts; whether judges could refer to such provisions in their judgements; and whether Poland intended to accede to the European Social Charter. They also requested information on the new legislation on trade unions and employers' associations, especially with regard to educators and artists.

112. In his reply, the representative of the State party indicated that Poland was still governed by the 1952 Constitution, as amended in 1989. The new Constitution was to enter into force in a few weeks. It contained a set of rules on the separation of powers and reproduced, with changes, some chapters of the old Constitution, especially those on human rights. Since that arrangement was not very satisfactory, the President of the Republic had submitted a draft charter of rights and freedoms to the Parliament; once adopted, the text would have the same value as the Constitution. The charter provided that all citizens had access to the courts, could contest the constitutionality of any law before a constitutional court and could, where appropriate, submit communications to relevant human rights bodies established under treaties to which Poland was a party.

113. In June 1992, the Supreme Court had declared that all international instruments ratified by the Polish Parliament were now directly applicable by the courts. The new Constitution would extend that rule to all instruments of that kind, including those ratified under the previous system, such as the Covenant. Economic, social and cultural rights were usually subjective rights guaranteed as such by the Constitution. It was only when the nature of the right in question so required that they became obligations of the State.

Articles 13 and 14: Right to education

114. Members of the Committee requested information on the changes which had been introduced or were being envisaged in the field of education. They inquired: whether these changes had affected equality of access to secondary and higher education; what percentage of the budget was being spent on education; whether the Government had identified any particularly vulnerable or disadvantaged groups or regions with regard to the practical enjoyment of the right to education; whether secondary and higher education suffered from the new economic developments; whether access to such education in rural areas had been negatively affected; whether the material conditions of teaching staff had changed in the last years and, if so, whether steps had been taken to improve these conditions and ensure that a teaching career remained

attractive; what the present status of religious (Catholic) education was; whether the present state of law in that respect ensured the rights of parents to the religious and moral education of their children in conformity with their own convictions; and whether there had been any changes in the field of education to guarantee the respective rights of the German as well as other minorities.

115. In addition, members wished to know: whether there was any programme for revising school textbooks and for training teachers in the new conditions prevailing in the country; how conflicts between parents and children as to attendance at religious education classes were being resolved; how teachers' salaries compared with those of other civil servants or skilled workers; what percentage of the total school population attended private schools; what the situation was of persons who had not completed primary school at the appropriate age; and whether, in view of budgetary difficulties, it was planned to use the services of retired teachers. Information was also requested on sexual education in Poland, particularly with regard to acquired immunodeficiency syndrome (AIDS), and on measures taken to promote human rights education.

116. In the reply, the representative of the State party gave a brief description of the Polish educational system and stated that an act on higher education had been adopted on 12 September 1990 and another on the education system on 7 September 1991. The latter had authorized private persons and institutions to establish non-State schools. Such schools were obliged to provide education free of charge with equal access for all children and received a State subsidy. The State curriculum had to be followed and the system of pupil assessment established by the Minister of National Education adhered to. In 1991-1992, there had been a total of 370 non-State schools in Poland, comprising 155 primary schools, 158 general secondary schools and 57 vocational schools. Such schools represented between 8 and 10 per cent of all educational institutions. Though few in number, such schools were nevertheless important in the Polish educational system, since they frequently served as a vehicle for change and reform. Despite the problems involved, the Polish State had no intention of shirking its responsibilities by completely privatizing education. Although it was possible to open private schools, the principle of free education remained valid.

117. Although 10.3 per cent of the national budget was allocated to education, as compared with 9.5 per cent in 1991 and 11.7 per cent in 1989, those figures did not in fact indicate an increase in the amount spent on education, but rather that cuts made in the course of financial adjustment had fallen less heavily on the education budget than on others. The number of teaching hours had, indeed, been reduced and most extracurricular activities had been abolished. Such activities were still being offered in many schools but for a fee, which would appear to contravene students' constitutional right to free education. Furthermore, over 2,000 kindergartens had been closed down, principally in rural areas. Regarding the average teacher's salary, the Government's objective had been to bring it up to the average wage paid in the production sector. Progress had recently been made in that area and the wage parity objective now appeared to have been achieved. Although Poland was facing major difficulties, it did not plan to use the services of retired

teachers. Many young graduates were already unemployed and such a solution would only make their problems worse. There might, however, be a possibility of having the youngest teachers benefit from retired teachers' experience. Following the recent reform in the structure of the country, the balance between vocational training and secondary schooling had shifted to a heavier emphasis on the latter, so that young people had greater flexibility when entering the labour market.

118. An act had been adopted on 14 April 1992 providing for religious education within the teaching programme of State primary and post-primary schools. In primary schools religious education would be available for students at their parents' request and in post-primary schools at the request of either parent or student. In cases of conflict between parents and students, the students' wishes would prevail. Students were not obliged to attend classes in religious education or ethics and attendance or otherwise at religious education classes was not to cause discrimination. Students' achievements in religious or ethics education were marked on their yearly certificate of achievement without identification of the type of instruction concerned and was not to affect their further career. Another act had been adopted in September 1990 on the operation and internal organization of universities.

119. An act on educational measures to promote the national, ethnic and linguistic identity of a minority had also been adopted on 24 March 1992. All pre-school institutions and schools were to provide suitable conditions for their pupils to preserve and develop their national, ethnic and linguistic identity as well as to become acquainted with their nation's history and culture. Under the act, ethnic minority education covered all forms of pre-school, primary and secondary education. During the 1991/92 school year, ethnic minority education had been provided in 127 primary schools and in 7 general secondary schools. Only 10 schools provided additional teaching of German. Foreigners residing in Poland had the same educational rights as Poles.

120. The objective of the planned reform of general education programmes was to promote a healthy lifestyle and, accordingly, to deal with questions relating to sexuality and AIDS. Regarding human rights teaching, a programme had been launched to produce handbooks and train teachers. It was true that teachers who had been trained for decades in Marxist-Leninist ideology were poorly prepared to teach the principles of democracy. Textbooks, especially history books, had been updated. Continuing education classes for adults also had to be adapted to the country's new situation, especially its economic situation, and had to aim at instilling some basic ideas of economics and developing a spirit of enterprise and initiative.

Article 15: Right to take part in cultural life and to enjoy the benefits of scientific progress and to benefit from the protection of the interests of authors

121. Members of the Committee wished to know: what percentage of the national budget was allocated to culture; whether censorship had been totally abolished in Poland; whether regional disparities in the availability or accessibility of culture and cultural facilities had been sharpened in the last years; what

steps were taken or contemplated to control or limit the "brain drain" created by the emigration of academics, scientists and artists; what the situation of ethnic and linguistic minorities was with regard to article 15; and how the situation of the German minority in that regard had developed.

122. In addition, members wished to receive further information on the economic situation of artists and wondered how copyright and other forms of intellectual property would be protected in future.

123. In the reply, the representative of the State party said that a new act adopted on 11 April 1990 had done away with censorship. The State's monopoly on publishing, printing and recording activities had been abolished and licences were no longer needed for art galleries. Another new law, adopted on 7 April 1989, had been adopted on cultural institutions, which could be created either by individuals or by legal entities. Since that law had been enacted, 200 cultural associations had been established. The only area in which a special licence was required was for the cinema, for copyright purposes. In that connection, a copyrights bill provided for the establishment of a body to protect authors' interests and collectively administer their royalties.

124. In 1992, 0.76 per cent of the State budget had been devoted to cultural and artistic activities. Admission to museums and cultural centres was free. Furthermore, theatres and operas opened their doors to schoolchildren and retirees once a month. The social situation of artists was better than that of other professionals. For example, they enjoyed considerable tax advantages. Even before 1989, artists had been able to travel and their only problems were in transferring back to Poland the money they earned abroad. Thus, there had been no "brain drain" of artists, since the only ones to have emigrated had done so for political reasons.

125. The phenomenon of the "brain drain" posed a difficult problem. It seemed that approximately 10 to 20 per cent of scientists and researchers who went abroad decided to stay there. The best solution would be to increase salaries and improve the general financial situation of those concerned so that they would have no reason to leave Poland, but unfortunately no money was available to do so.

126. A State foundation provided assistance to minorities, covering expenses for newspapers, periodicals and books published in the relevant languages, and the Ministry of Culture and Art had enlarged its sphere of activities to include minorities in Poland and Poles living abroad.

Concluding observations

127. The Committee noted that the second periodic report submitted by Poland in respect of articles 13 to 15 of the Covenant had originally been submitted in March 1990. In the intervening period, however, fundamental economic and social changes were occurring in the country which rendered obsolete much of the information contained in the written report. It was, therefore, necessary to assess the rights enshrined in articles 13 to 15 in a contemporary setting and in that regard, the Committee found the supplementary information contained in the oral presentation extremely useful.

128. The Committee wished to express its appreciation for the comprehensive nature and frankness of the oral presentation and the accurate supporting data which was provided.

129. The Committee noted that a new constitutional order based on the rule of law and a charter of rights was being introduced as the legal basis for guaranteeing subjective rights and that certain human rights contained in international covenants to which Poland was a party would be automatically received into domestic law and could be directly enforceable in the country. It remained unclear whether economic, social and cultural rights could be directly enforceable. The Committee requested the Polish Government to provide clarification, by means of the third periodic report to be submitted by 30 June 1992, as to which of the rights covered by articles 13 to 15 of the Covenant were subjective rights which would be directly enforceable in the courts in Poland.

130. The Committee noted the liberalization of the educational system and the new emphasis being placed on secondary vocational education. Whilst appreciating the fundamental reforms which had been introduced, the Committee was concerned that the new thrust towards a market-oriented economy was accompanied by a decrease in the budget for education and that the general decline in the economy constituted a threat to the enjoyment of the economic, social and cultural rights of the Polish people. In that regard, the Committee re-emphasized its concern that the difficulties being experienced during the period of transition did not diminish the State's obligation to protect the more vulnerable members of the society.

131. The Committee was informed by the Polish delegation that it was not the intention of the Government to privatize education and that the provision of education would remain the primary responsibility of the State.

132. The Committee noted with satisfaction that censorship had been abolished in Poland and that new legislation for the protection of literary and artistic works had been introduced. The Committee, however, expressed its concern that the reduction of the budget for culture could lessen the opportunity for the expression and enjoyment of the rich cultural heritage of Poland. In that regard, the Committee wished to be assured that special provisions would be made to ensure that the elderly would be able to continue to enjoy and participate in the cultural life of the country in full measure.

Hungary (arts. 13 to 15)

133. The Committee considered the second periodic report of Hungary concerning articles 13 to 15 of the Covenant (E/1990/7/Add.10) at its 9th, 12th and 21st meetings, held on 27 November, 2 and 10 December 1992 (E/C.12/1992/SR.9, 12 and 21).

134. In introducing the report, the representative of the State party explained that it had been prepared in May 1990, shortly after the first free and democratic elections organized in Hungary since the fall of the Communist regime. Since then, major political, legal and economic changes had taken place that affected the protection and full enjoyment of the rights under consideration.

General matters

135. The members of the Committee requested information on: the country's new political structure and changes in economic, social and cultural characteristics; the new legal framework within which human rights were protected; the status of the Covenant in internal law; the effect of the current political and economic transition on the realization of economic, social and cultural rights, particularly the rights covered by articles 13 to 15 of the Covenant; the measures taken by the Government to fulfil its obligations under the Covenant in the current unfavourable economic conditions; and the sectors of Hungarian society whose economic, social and cultural rights were particularly affected by the current situation. They asked whether there were any restrictions on the exercise of the rights embodied in articles 13 to 15 of the Covenant; to what extent those rights were guaranteed to non-nationals; to what extent and in what way political and economic changes affected the population's access to education and culture; whether the bills on freedom of conscience and freedom of religion, as well as the nationalities act, had been adopted; what the "new principles governing the direction of science" were; how articles 13 to 15 were reflected in the new Hungarian Constitution; and whether the percentage of the national budget allocated to education, research and culture had increased or declined as a result of the country's economic and political transformation.

136. It was also asked: whether international human rights instruments were incorporated in internal law; what attitude Hungary took towards regional human rights instruments; whether there had been a large increase in Hungarian non-governmental organizations in the fields of culture and human rights; whether the Constitutional Court had jurisdiction to repeal any legislation that was contrary to international obligations; what measures had been taken with regard to the implementation of articles 13 and 14 for the benefit of members of minorities; and what Hungary's policy was towards Hungarian minorities living abroad and political asylum seekers from neighbouring countries.

137. In his reply, the representative of the State party indicated that Hungary was still going through the transition to a market economy, whose legal framework had already been established. However, the reorganization of the economy took time and privatization programmes and the shrinkage of the country's traditional markets were causing problems. Inflation, unemployment and external debt were placing a strain on the State budget and that had an impact on the financial resources which the Government was in a position to devote to the implementation of the economic, social and cultural rights provided for in the Covenant. Spending on education had, however, risen from 3.57 per cent of the budget in 1981 to 9.8 per cent in 1991. Spending on culture had accounted for 1.86 per cent of the budget in 1991 as against 0.84 per cent 10 years previously, whereas spending on research and development had declined from 2.49 per cent to 1.69 per cent of GDP in 10 years.

138. An international instrument was not incorporated in internal law simply as a result of ratification. Such incorporation and, consequently, the possibility for any person to invoke the instrument before a court took place only following publication of an act for that purpose. The main sources of information on human rights were the Official Gazette and specialized

publications. The Hungarian Human Rights Centre was now preparing a human rights teaching handbook for publication. Advanced courses in human rights were also given in faculties of law, the National School of Administration and the police academy.

Articles 13 and 14: Right to education

139. The members of the Committee asked how Act I of 1985 on Education encouraged the development of human rights teaching, the full participation of everyone in a free society and understanding, tolerance and friendship among all nations and all racial, ethnic and religious groups. They requested information: on the principle that secondary education was exempt from any entrance examination and school fees when students had their first qualification; on changes in higher education teaching staff in recent years; on the role of the churches in education, especially the moral guidance of young persons; on the current number of primary school pupils enrolled for religious instruction on an optional basis; and on whether such instruction was given in school or outside school.

140. It was also asked: whether foreigners had access to higher education under the same conditions as Hungarian nationals, particularly for the award of scholarships; what the relative share of the private sector was in education; whether there were non-Catholic religious schools; how the experience of elderly persons was used in education; and what the social and legal status of teachers was, as provided for in the new Labour Code. Moreover, information was requested on further education for adults.

141. In reply to questions, the representative of the State party said that the right to education was guaranteed by articles 67 to 70 of the Constitution and that it was exercised under Act I of 1985, as amended in 1990. Higher education and vocational training were to form the subject of separate legislation that was now under consideration. Special programmes had been set up for some regions which were more affected than others by the difficult transition to a market economy. They were designed to offset the possible repercussions such difficulties might have on education, particularly in the granting of social benefits, reduced nursery charges and the free distribution of school materials. As to curriculum content, he pointed out that there had been no need for radical change in the majority of textbooks, since Hungarian education had never been particularly marked by Communist ideology. However, some historical events, such as those of October 1956, were now depicted differently and a standard curriculum was being worked out.

142. The legal status of teachers was governed by the Labour Code and the Civil Servants Act, which had entered into force in July 1992. The Act I of 1985 provided for the training of adults, so that those who had not completed eight years of compulsory primary education were afforded the possibility of receiving further education in the workplace, in the army or at a school. Retired teachers on a pension but still engaged in their professional activities accounted for 1 per cent of working teachers in Hungary.

143. The representative of the State party also supplied some statistics on the number of educational institutions and pupils in Hungary. He said that there were now 102 private schools in Hungary, some of them administered by churches, others by various legal entities. One school for gypsy children had just been established on the initiative of gypsy artists. There were also three private universities. Private institutions issuing certificates or degrees equivalent to those issued by public educational institutions received a State subsidy. Such subsidies enabled the State to monitor the calibre of the instruction provided.

144. Relations between the State and the various religious denominations did not give rise to any discrimination in the granting of subsidies or the allocation of premises. The churches, whose right to create and administer educational institutions had been fully restored, were now returning to the role they had traditionally played before denominational schools had been taken over by the State in 1948. Such schools, which accounted for approximately 2 per cent of educational institutions, should increase in number as the buildings which had belonged to the churches were returned to them under Act IV of 1990. The authorities were not entitled to interfere in the activities of denominational schools, which none the less had to meet the standard requirements for school curricula. Furthermore, 2 to 3 per cent of pupils received religious instruction in State schools, where such courses were optional, or outside school.

145. The ethnic and linguistic minorities accounted for between 2.6 and 5 per cent of the population, to which was added the gypsy community, which numbered between 400,000 and 600,000. The Government protected the national identity and mother tongue of those minorities by means of a network of 294 nursery schools, 314 primary schools and 8 secondary schools. The publication of school textbooks in the languages of the minorities was still subsidized and teachers working in schools for minorities received higher pay. The bill on national and ethnic minorities defined the legal status of indigenous minorities. It was designed to compensate for disadvantages which usually flow from being a member of a minority group by advantages in terms of culture and instruction in the mother tongue. Furthermore, special curricula were being devised for gypsy children. Measures were required in order to promote the use of the gypsy language, which was spoken by only a small proportion of the gypsy population.

146. Education for foreigners domiciled in Hungary was governed by special legislative provisions. Secondary education and higher education were not free of charge for foreign students, who could none the less receive scholarships. There were also more than 100,000 refugees in Hungary, many from the former Yugoslavia. Refugee children who did not speak Hungarian received instruction in so-called mother-tongue schools or in schools set up especially for that purpose and such instruction was provided by refugee teachers.

Article 15: Right to take part in cultural life and enjoy the benefits of scientific progress and to benefit from the protection of the interests of authors

147. The members of the Committee requested detailed information about the implementation, in the present context, of the right of everyone to take part in cultural life. They asked: how the decline in the real value of State support had affected access to culture; whether the number of theatres, operas and concert halls was declining; whether the cinema industry was subsidized and, if so, what the criteria were for supporting a film; what role the media played as a factor in encouraging participation in culture; and what legislative and administrative measures had been taken to protect "the freedom indispensable for scientific research and creative activity" mentioned in the Covenant. It was also asked whether censorship had been abolished; whether a brain drain had been observed in Hungary and, if so, what measures had been taken to remedy it; and what steps had been taken to facilitate access to and participation in culture by elderly persons.

148. In his reply, the representative of the State party emphasized that freedom to engage in creative, scientific or artistic activity and the right to education and culture were all guaranteed by article 70 (F) and (G) of the Constitution. Freedom of the press was guaranteed by the Press Act of 1985, as amended in 1990. There was no censorship body in Hungary. The State still subsidized cultural institutions, such as museums, libraries, cultural centres, theatres and concert halls, but not publishing and film-making, which had been privatized. Private financing, patronage, foundations and groups of artists were increasing and would little by little fill the gap left by the State in that regard.

149. Basic research, traditionally done by universities and institutes of the Academy of Sciences, was still financed largely by the State budget. Applied research was done by large firms in their own laboratories and financed by them or by industrial research institutes. The National Technical Development Committee allocated budget resources to such institutes through research contracts with "risk participation". The Hungarian State protected industrial property by means of modern regulations that even safeguarded the right of inventors to take part in the profits from the marketing of their technical innovations. A brain drain among scientists could be seen in Hungary, where it was estimated that 10 to 15 per cent of scientists were employed abroad. The Government was endeavouring to set up the necessary facilities so that the brain drain would involve not only disadvantages but also advantages for Hungary. Hungary played a particularly active part in international scientific cooperation programmes, such as CERN and the European Community's Eureka Programme.

Concluding observations

150. The Committee expressed its appreciation to the State party for the written report. Since the report had been prepared in 1990, however, the situation described therein had in large part been overtaken by the rapid political and economic developments in Hungary. That shortcoming was remedied to a considerable degree by the additional information provided both in

writing and orally on the occasion of the introduction of the report, as well as by the comprehensive and detailed replies given by the delegation of Hungary in the oral phase of the Committee's proceedings.

151. The Committee noted with satisfaction that despite the very difficult economic situation in Hungary, budget expenditure for education and culture had increased considerably between 1981 and 1991. The Committee also noted that economic, social and cultural rights had been enshrined in the new Constitution and that human rights education formed part of the curricula not only of the faculties of law but also of the National School of Administration and of the Police Academy. Another positive aspect was to be seen in the special education programmes put in place in regions of the country particularly affected by the adverse economic situation. Finally, the Committee noted the active participation of Hungary in international scientific cooperation.

152. The Committee noted that the period of political and economic transition in which Hungary currently found itself made it extremely difficult for the Hungarian Government to take the steps necessary to achieve the full realization of the rights enshrined in articles 13 and 15, and even forced it to take some retrogressive measures.

153. Although the Committee arrived at the overall impression that the Government of Hungary was making a serious effort to preserve its considerable achievements in the field of education and culture under the difficult circumstances of the present period of political and economic transition, it nevertheless remained concerned that cultural life in Hungary would be negatively affected by the severe financial strictures and until private initiatives had filled the void left by the partial withdrawal of the State from the areas under consideration.

154. In view of the magnitude of the changes involved in the transition process in which Hungary was engaged, the Committee wished to place special emphasis upon the need to ensure that special attention was paid to the right to education and culture of the most vulnerable and disadvantaged members of Hungarian society.

Italy (arts. 1 to 15)

155. The Committee considered the second periodic report of Italy concerning articles 1 to 15 of the Covenant (E/1990/6/Add.2) at its 13th, 14th and 21st meetings, held on 3, 4 and 10 December 1992 (E/C.12/1992/SR.13, 14 and 21).

156. Introducing the report, the representative of the State party pointed out that the report under consideration had been drafted nearly three years earlier when a positive economic and social situation had still prevailed. Today, however, the country was beset by grave economic problems because the international economic situation had imposed extraordinary financial burdens on the Government. There were also new problems regarding unemployment resulting from the changeover in management as national industry became privatized.

General matters

157. With regard to the general framework within which the Covenant was being implemented, members of the Committee wanted to know: if in preparing the report the Interministerial Committee of Human Rights had sought or received input from any sources outside the Government; what was the status of the Covenant in domestic law and whether the ratification of the Covenant had given rise to any modification of the relevant law; which of the rights stipulated in the Covenant and recognized by Italian law were subject to specific non-discrimination provisions in national law; the extent to and manner in which non-nationals were not guaranteed the rights recognized in the Covenant and how any such differences were justified; the limitations which might have been imposed upon the exercise of rights set forth in articles 6 to 15 of the Covenant, the reasons therefor and the safeguards against abuses in that regard; what was the demographic distribution of the migrant population and what recent changes might have taken place in that regard; and what developments there had been concerning the actual enjoyment of the rights stipulated in the Covenant, particularly in regard to vulnerable or disadvantaged regions or groups.

158. In his reply, the representative of the State party stated that the report under consideration, like other reports submitted by Italy under the various human rights conventions it had ratified, had been drafted by the Interministerial Committee of Human Rights which was composed of representatives of all the ministries concerned. The report had not been widely circulated to the public in advance although it had been given some publicity among specialized circles in the country. He also pointed out that, since the ratification of the Covenant, its standards had been applied frequently. Italian law had been brought into line with international standards in that respect, particularly by virtue of article 10 of the Constitution. As regards non-discrimination provisions in national law, it had not been necessary to introduce specific amendments since the principle of parity was proclaimed under all Italian legislation, starting with the Constitution. Regarding the limitations imposed on the exercise of rights set forth in articles 6 to 15 of the Covenant, those articles were covered by the Labour Act of 1970 and by articles 39 and 40 of the Constitution which affirmed the freedom of trade union organization and the right to strike, respectively. Limitations on the right to strike were imposed with regard to essential public services and situations which might endanger public safety or threaten the basic rights of citizens.

159. Turning to questions concerning the migrant population, the representative stated that the Italian labour market had been substantially affected by increased immigration. At the end of 1991, there were 900,000 foreign workers in Italy, representing a 15 per cent increase over the corresponding figure from the previous year. The critical international situation had played a part in this trend as shown by the recent increase in immigrants from the former Yugoslavia and Albania. Immigrants to Italy had come from every region of the world: 34.4 per cent came from Europe, 30.7 per cent from Africa, 18 per cent from Asia, 16.4 per cent from America and 0.5 per cent from Oceania. Among the 169 countries involved, Tunisia, the Philippines, Germany, the former Yugoslavia, Senegal, Albania,

Egypt and China were especially prominent. Given that clandestine immigration continued and that it was necessary to regulate the position of migrant workers arriving in Italy under the terms laid down by Act 943 of 1986, a new law had been passed, Act 39 of 1990. Additionally, interministerial decrees were published each year on issues of general policy relating to immigration and applications for refugee status. To assist prospective immigrants, an information handbook on the subject had been published in a variety of languages and widely disseminated abroad.

Article 6: Right to work

160. Members of the Committee requested information on: the situation and trends over the last 5 to 10 years concerning employment, unemployment and underemployment in Italy, particularly in regard to women, young persons, older workers, disabled workers and migrant workers; which groups were considered especially vulnerable or disadvantaged with regard to employment and what measures had been taken in that regard; what proportion of the working population held more than one job in order to secure an adequate standard of living for themselves and their families; and how the term "unemployment" was defined in Italy.

161. In his reply, the representative stated that, in response to the worsening economic situation, the Government had undertaken a number of measures aimed at resolving the dilemma of ensuring recovery without compromising the functioning of the social State. In particular, the Act of 23 October 1992 had required the Government to promulgate standards for rationalization of public health, public sector employment and local finances. Trade unions understood the situation and had made a praiseworthy effort to narrow areas of confrontation.

162. With respect to those holding more than one job, the representative pointed out that it was difficult to establish statistics in that regard since second jobs were rarely declared to the authorities. However, the Government had decided to apply the conditions prevailing in the private sector to the public service, which hitherto had enjoyed shorter working hours and greater job security, in order to reduce opportunities for moonlighting. In Italy, unemployment was generally defined as a situation in which a person was either without a job or seeking one. Persons working less than 22 hours a week were also considered as unemployed. Because of the changes and new techniques in the way in which industry was organized, an increasing number of persons remained unemployed because they did not have the skills required to fill jobs that were available.

Article 7: Right to just and favourable conditions of work

163. Concerning these issues, members of the Committee wished to know: the situation of migrant workers regarding remuneration, safe and healthy working conditions, limitations of working hours and holidays; the Government's estimate of the number of non-European Community workers illegally present in Italy and irregularly employed both in the economy and in private households; the situation of foreigners illegally working in agriculture and as street vendors and the measures taken by the Government in that respect; whether

there were wage earners remaining outside the protection of the system of minimum wages; how the system of the scala mobile ("sliding scale") worked; and statistical and other information concerning the number, nature, frequency and trends over time of occupational accidents and cases of occupational diseases.

164. In his reply, the representative reported that as at 30 September 1992, there had been 750,000 non-European Community workers in Italy. Some 34,000 of those had entered Italy between January and September 1992 and had regularized their situation. Of recent legal immigrants, 6,000 were asylum seekers from Eastern Europe, including displaced persons who wished eventually to return home. There were an estimated 400,000 non-Community illegal immigrants in the country, of which 220,000 had regularized their situation pursuant to Act 39 of 1990. The rest, who were principally street vendors or seasonal agricultural workers, had an obvious interest in remaining clandestine. As a step towards regularizing the position of non-Community nationals working as street vendors who had generally entered the country illegally, they had recently been permitted to become employers of a maximum of two helpers. The rights of migrant workers to equal treatment was guaranteed under the law.

165. The right to a minimum wage was guaranteed by article 26 of the Constitution. The sliding scale system, which had been a feature of Italian life for decades, would be coming to an end on 31 December 1992 under a protocol signed between the Government and trade unions. Henceforth, wage indexing would be replaced by a lump sum payment of 20,000 lira per month. In regard to industrial accidents, these occurred principally in the mining, metallurgical and building industries. There had been 4,000 such accidents, two per working day, over the past 10 years. The incidence of occupational diseases had decreased in the industrial sector from 58,212 in 1988 to 46,000 in 1991.

Article 8: Trade union rights

166. Members of the Committee wished to know: which were the most representative trade unions; whether trade union membership was rising or falling; whether military personnel and civil servants had the right to form and join trade unions; whether there was a strike law governing the private sector; what limitations there were on the right to strike; the procedures whereby strikes were declared illegal; and whether there was any legislation on lock-outs.

167. In his reply, the representative stated that more than 80 per cent of the economically active population was represented by a union. There were three main unions in Italy which at present had ceased fighting among themselves and had formed a coalition. Additionally, there were a large number of company unions, many of which opposed the three main unions and which sometimes had a very negative effect, as in the case of the public sector. The police force had created its own trade union which represented its interests in negotiations with the State. Military personnel were served by a body similar to a union which defended their interests before the Ministry of Defence. With respect to lock-outs, there were no relevant regulations.

Article 9: Right to social security

168. Members of the Committee wanted to know: how the old-age pension system dealt with the problem of divorce, especially in cases where one spouse had not previously acquired the right to a pension; whether long-term unemployed women and other groups with difficult access to the labour market were disadvantaged by any rules requiring a minimum time for the right to social security; and whether there were any social security benefits available to non-citizens and, if not, what was the reason for their exclusion from such benefits as "social pensions".

169. In his reply, the representative stated that under the legislation in force claimants to a surviving spouse's pension would, in the case of divorce, be entitled to such a benefit provided that they had not subsequently married or were already receiving such a pension.

170. The representative also explained that, under article 11 of Decree No. 195 of 1992, citizens and foreigners legally residing in the country had equal access to social security benefits. Employers made equal contributions in both cases; in addition, foreigners were required to contribute to a special fund covering possible repatriation for indigent workers. Only the social pension was restricted to Italian citizens. This pension was aimed at assisting persons with insufficient incomes and was not financed from the contributions of either employers or employees. The social pension was recognized under the Treaty of Rome and conformed to the requirements of European Community directive No. 92 on social security.

Article 10: Protection of the family, mothers and children

171. Members of the Committee wished to know: how the concept of the "family" was recognized and applied in Italian law; what was the practical effect of the measures for the protection of children and young persons described in paragraphs 41 to 54 of the report; whether consideration had been given to raising the minimum working age from 15 to 16 years of age; whether wages received during maternity leave were paid by the employer or the State; whether there were any programmes for mothers who wished to interrupt their work for two to three years in order to raise their children and whether their jobs were guaranteed or their re-entry to employment supported; what the situation was in regard to day-care facilities and how far the need for such facilities had been satisfied; whether maternity-leave protection was enjoyed by all women and how levels of protection varied; what was the legislation concerning abortion; whether there were particular groups of children in Italy who were disadvantaged with respect to protection and assistance and what their situation was; and to what extent the laws and regulation described in paragraphs 41 to 114 of the report had been brought into conformity with the provisions of the Convention on the Rights of the Child.

172. Members of the Committee also wished to know: what mechanisms there were to enforce the legislation on the employment of children; whether children born out of wedlock enjoyed the same rights as other children; whether all mothers who needed day-care facilities could find a place for their children and, if not, what percentage of them did not have access to such facilities.

173. In his reply, the representative explained that article 29 of the Constitution recognized the family founded on marriage as the natural unit of society. Although Italian legislation regarded as legitimate only those families founded on marriage, de facto families not founded on marriage were increasingly being recognized in Italian case law. A recent reform also introduced the concept of family enterprise, which provided for distribution of the benefits of such enterprises in proportion to the quality and quantity of work contributed. In Italy, the question of divorce had been a very complex and difficult issue. The Concordat between Italy and the Holy See gave religious marriage a status in Italian civil law and since canon law did not recognize divorce, the term could not be mentioned in legislation. None the less, divorce proceedings before a court had been established and recent case law upheld the constitutional legality of the procedure to bring the civil effects of a marriage to an end.

174. With respect to the illegal employment of minors, infringement on the relevant legislation carried heavy penalties. In the south of Italy, there were 4,000 workers under the age of 15, including children legally and illegally employed. Under the law of 1967 on the employment of adolescents and children, 15 years was the minimum age for entry into employment, except for agricultural workers, family workers and workers engaged in light work outside industry, in which case the starting age was 14 years. For work hazardous to the health, 16 years was the minimum age.

175. In regard to the other questions that had been posed, there was no problem concerning the availability of day-care facilities. Abortion was legal during the first three months of pregnancy and medical services to this end were available at public hospitals and special clinics. Information on family planning was available at centres located in each city where doctors, social workers and psychologists provided services for this purpose free of charge. Lastly, legislative measures had been adopted in order to protect de facto families and children born out of wedlock, ensuring that the latter were accorded equal treatment with other children.

Article 11: Right to an adequate standard of living

176. Members of the Committee wished to know: about the standard of living of particularly vulnerable and disadvantaged groups such as the rural and urban unemployed, migrant workers and pensioners; how the standard of living of these groups compared with that of 5 and 10 years ago; how many persons had been evicted over the last five years and what procedures and safeguards existed regarding the eviction of low-income families; how many persons were on waiting lists for obtaining accommodation, the average length of the waiting period and what measures had been undertaken to shorten the lists and reduce the waiting time; how many homeless persons there were in Italy and what proportion of them were non-European Community foreigners.

177. Members of the Committee also wished to know: whether recent changes in the legislation concerning rent had reduced the protection afforded to tenants and whether these changes had been introduced as part of the Government's privatization programme; what steps the Government had taken to protect non-nationals from discrimination in housing; how many migrant workers had

been evicted; how many of the 60,000 to 100,000 persons reported to be homeless were non-nationals; and why the number of uninhabited housing units in cities such as Rome and Florence were increasing.

178. In his reply, the representative pointed out that 62 per cent of the flats in Italy were owned by the persons living in them. A total of 700,000 requests had been made for rent-controlled housing. As part of the Government's privatization programme, 200,000 State-owned flats had been offered for sale to their tenants. Many flats had remained unoccupied because the owners did not wish to rent them at very low controlled rates to persons whom it might be difficult to remove later on. In view of this situation, the authorities had decided to relax the laws regarding rents, permitting owners to set higher rates. There was a commission in each province which was responsible for reviewing each case of eviction in the light of the social situation of the persons concerned.

Article 12: Right to physical and mental health

179. Members of the Committee wanted to know: how the public health system coped with the problem of large increases in expenses in the medical sector; and what the policies were in regard to acquired immunodeficiency syndrome (AIDS) and to drug abuse, the successes and failures of those policies and how they had developed over time. Members of the Committee also wished to know if measures had been taken to assist older persons requiring continuing care and those persons suffering from terminal illness.

180. In his reply, the representative stated that, owing to the current economic situation, it had been necessary to make a number of changes in Italy's very generous public health care system, especially as costs in that sector were the principle cause for the deficit in the national budget. Among the reforms introduced were provisions requiring persons in higher income brackets to bear part of the costs of their health care.

181. The representative noted that Italy had suffered greatly from the AIDS epidemic, as 80,000 persons had tested HIV-positive and 15,000 had shown symptoms of the disease. Legislative and other measures had been undertaken to enable those suffering from AIDS to receive professional therapy at home. There was concern that AIDS patients should not be isolated from the community and public education was felt to be especially important in that regard. Legislation concerning drug users had been modified so that criminal proceedings were not instituted if the drug user accepted treatment. A law adopted in 1990 had introduced various administrative stages to be followed before penal sanctions were applied. Thus, imprisonment was used only as a last resort in cases where treatment was refused or where a person was caught again in possession of drugs. The Government's goal was to rehabilitate drug users. However, penalties for drug dealing had been stiffened.

Article 13: Right to education

182. Members of the Committee wished to know: the meaning of the word "cultural homogenization" as it had been used in paragraphs 143 and 146 of the report; what was the situation regarding the avoidance of compulsory secondary schooling in the poorest areas of the country; what percentage of children

completed their secondary education; what was the drop-out rate at the university level; what percentage of university graduates were not able to enter the career for which they had been trained and what measures had been undertaken or were foreseen by the Government to remedy that situation; how the children of migrant workers had been integrated into the educational system; what provision had been made to preserve the cultural or linguistic heritage of immigrant children and the children of migrant workers; how linguistic minorities were dealt with in the educational system; and what measures had been undertaken to protect the rights of the German-speaking and French-speaking minorities in the border areas and how those measures accorded with the demands of the regional governments concerned. Members of the Committee also wished to know if older persons had access to education.

183. In his reply, the representative explained that the term "cultural homogenization" meant that all pupils were entitled to the same education without discrimination. The goal was not to do away with ethnic differences but, on the contrary, to stress the concept of intercultural education and the mutual enrichment resulting from the presence of foreign pupils in the schools. The social integration of foreigners was the aim of the Government, not the renunciation of their culture. However, since there were more than 130 different foreign ethnic groups in Italy, it was clearly impossible to teach children from all those groups their language and culture of origin.

184. With respect to the avoidance of compulsory secondary education, a programme had been launched to address that problem even though it did not affect a significant portion of the population. In regard to university education, Italian universities were open to all persons who had completed secondary school. However, only 30 per cent of university students completed their programme and obtained a diploma. Only 37 per cent of university graduates found employment in line with their field of study. To remedy that situation, the Government had launched a programme to improve career orientation and to introduce a shorter course of university training that was better suited to the requirements of the labour market. The representative added that there were universities for older persons in the main cities such as Rome, Milan and Turin and that such programmes were well attended.

185. Concerning linguistic minorities, special legislation had been adopted on the teaching of languages additional to Italian that were spoken in the border regions of the country. A degree of autonomy in those regions had also been granted.

Article 15: Right of everyone to take part in cultural life and to enjoy the benefits of scientific progress and to benefit from the protection of the interests of authors

186. Members of the Committee wished to know: how successful measures had been concerning the preservation of Italy's archaeological heritage and the conservation and restoration of works of art; what was the situation with regard to theft of works of art and their illegal transfer abroad; whether the figure "5 million" in the report was correct; and what percentage of the government budget had been allocated for the preservation and conservation of the country's cultural heritage.

Concluding observations

187. The Committee welcomed the continuation of its dialogue with Italy on the occasion of the submission of that country's second periodic report on articles 1 to 15. It was gratified by the high level of the delegation selected to present the oral report and to reply to the questions raised by the written report.

188. The written report dealt very comprehensively with articles 13 to 15 and article 10 (3), but on articles 6 to 9, 10 (1) and 10 (2) it was too sketchy and it did not cover at all the rights contained in article 11, concerning the right of everyone to an adequate standard of living. The oral presentation and the replies to the Committee's questions largely rectified that shortcoming.

189. The Committee noted that substantial efforts were being made by the Italian Government to reduce unemployment and integrate foreign workers, both from within and outside the European Community. The number of industrial accidents and occupational diseases was falling. Progress was also being made in the employment of women.

190. However, the policy of privatization and the abolition of the sliding scale system entailed certain risks for the social protection of all the sectors of the population.

191. In the consideration of the report the Committee devoted particular attention to the right to housing. Although the steady increase in the number of home-owners (currently 62 per cent) was a source of satisfaction, the situation of tenants in the most disadvantaged social categories did not seem to be improving.

192. The Committee wished to draw the attention of the State party to a number of specific concerns resulting from the dialogue with its representatives. These concerns included the fact that:

(a) The adoption of Act L359/92 in August 1992 seems likely to aggravate the situation of the most economically disadvantaged tenants. The Act partly goes back on Act L392/78 of 1978, which introduced the concept of a "fair rent" (equo canone);

(b) It has led to a certain paralysis in the rental market since about 5 million apartments are currently reported to be unoccupied. The scope of exceptions to the fair-rent rule has widened and freedom to set rents is contributing to rental increases;

(c) Given the shortage of low-income housing, which accounts for about 5 per cent of the total housing stock, and since no housing allowance system has been established or is envisaged, the situation of tenants is disturbing. The 10-year low-income housing construction plan, which was partly executed in 1988, has not been amended and remains insufficient;

(d) A further continuing source of concern is the precarious nature of leases, aggravated by the provisions of the Act of August 1992, given the fact that 74 per cent of evictions are based on termination of the lease and, since 1983, one family out of three has been evicted.

193. The Committee reiterated the importance the Covenant attaches to the right to housing, and recommends that the Italian Government should take all appropriate measures to improve the situation of tenants and to ensure that medium-term solutions are found in order to deal more satisfactorily with housing for the most disadvantaged social categories. It hopes to receive all relevant information on the occasion of Italy's submission of its third periodic report.

Chapter VI

CONSIDERATION OF ADDITIONAL INFORMATION SUBMITTED BY STATES PARTIES PURSUANT TO THE COMMITTEE'S REQUEST

194. The Committee, at its 12th, 15th, 16th, 19th and 23rd meetings, held on 2, 4, 8 and 11 December 1992, considered the additional information submitted pursuant to the Committee's request by France (E/1989/5/Add.1), Netherlands (E/1989/5/Add.2), Jamaica (E/1989/5/Add.4), Jordan (E/1989/5/Add.6), the/Philippines (E/1989/5/Add.7) and Panama (E/1989/5/Add.8). In that connection, the Committee had before it recommendations adopted by its pre-sessional working group with respect to the additional information referred to in the preceding paragraph.

195. In accordance with rule 62 of the rules of procedure of the Committee, representatives of the reporting States had been invited to participate in the meetings of the Committee when additional information submitted by their countries was considered and all concerned States sent such representatives. In accordance with a decision adopted by the Committee at the 23rd meeting of its second session, the names and positions of the members of each State party's delegation are listed in annex V to the present report.

196. The Committee, having considered the additional information submitted by France, Jamaica, Jordan and the Philippines, expressed its satisfaction with the supplementary information that had been provided and commended the readiness of the Governments concerned to continue a constructive dialogue with the Committee on the issues relating to the implementation of the provisions of the Covenant. The Committee also took note of a statement by the representative of the Netherlands that issues raised in a request for additional information adopted by the Committee would be addressed in the next periodic report to be submitted by the Netherlands.

197. At its 16th and 23rd meetings, the Committee considered additional information submitted by the Government of Panama subsequent to the consideration by the Committee, at its sixth session, in 1991, of the initial reports of Panama concerning rights covered by articles 6 to 9 (E/1984/6/Add.19) and articles 13 to 15 (E/1988/5/Add.9), of the second periodic report concerning rights covered by articles 10 to 12 (E/1986/4/Add.22) and of the supplementary information updating the above-mentioned reports (E/1989/5/Add.5). The Committee also considered the relevant recommendations of its pre-sessional working group and adopted the following conclusions:

"General observations

1. The Committee expresses its appreciation to the Government of Panama for having responded quickly and thoroughly to its request for additional information. As to the information itself, it refers more to the legal norms than to their practical application. Despite the supplementary explanations given by the government representatives, several questions remain unanswered, in particular those relating to labour rights and the right to housing.

2. Frequent references are made to plans and projects but no particulars are given as to their progress.

3. Some members of the Committee expressed the view that the reconstruction policy of the Panamanian Government is neglecting the economic, social and cultural rights of workers.

Article 6: Right to work

4. No mention is made of any inspection activities for the enforcement of labour legislation.

5. No precise answer has been given to the questions put by the ILO representative relating to forced and compulsory labour in the Canal Zone.

6. The privatization policy for the public sector has left the question of dismissal of workers to the arbitrary discretion of the new owners.

7. The remedies provided for in the Labour Code against arbitrary dismissal do not apply when political grounds are invoked.

8. No information is given on underemployment and the information on unemployment is incomplete since it refers only to urban areas.

9. No information is given on the situation of those still unemployed after the period of 3 or 12 months from dismissal or loss of employment which is covered by social security.

Article 7: Right to just and favourable conditions of work

10. No mention is made of any labour inspection activities relating to working conditions. The representative of Panama offered to give the relevant information but this is not to be found in the list of annexes.

Article 8: Trade union rights

11. There are no figures for the number of trade union members.

12. No indication is given of the requirements (other than age) for trade union membership.

13. There is a contradiction in stating, on the one hand, that membership in a trade union is not compulsory and, on the other, that compulsory membership (a "legacy of the former regime") constitutes a violation of trade union freedoms and that an effort will be made to abolish it.

14. The restrictions imposed on the participation of aliens in the executive committees of trade unions are in conflict with the provisions of the Covenant.

15. No information is given on the restrictions placed upon the rights of trade unions.

16. There is no information on the outcome of the persecution of trade union leaders or on the restrictions which prevent the free operation of unions.

17. No statistics are furnished for the past three years on the number of strikes, the numbers of workers affected, etc. for each branch of economic activity.

18. There is no genuine right of civil servants to have recourse to strike action in practice.

19. There is continued failure to supply the report requested by ILO concerning the rights of indigenous persons within the framework of article 8.

Article 9: Right to social security

20. No data have been furnished on disbursements by the Social Security Fund for the past two years.

21. Panama has informed ILO that it has had difficulties in providing social assistance and in introducing certain necessary social security measures. No further information has been received by ILO regarding the legislative amendments which the Panamanian Government proposes to introduce in this matter.

22. No indication is given of standards for determining pension benefits.

Article 10: Protection of the family, mothers and children

23. There are no statistics on working mothers.

24. No information is given concerning maternity protection for non-unionized women, unmarried women or widows.

25. There are no statistics on children cared for by State services.

26. No particulars are given on the fate of the institutions for the protection of minors which were destroyed in the bombing.

27. There are no statistics on children with no family.

28. There is no explanation concerning the source of the high figure for drug addiction among young people (60 per cent).

29. The information on the work permits granted to minors appears disproportionately low compared with the large number of children who actually work (20,000).

Article 11: Right to an adequate standard of living

30. The 1987 report contains little information on the right to adequate food and clothing.

31. The report which deals with this article dates from 1987 and the additional report submitted in December 1991 does not refer to the contents of the article. The Panamanian Government has submitted a large number of certificates issued by mayors stating that there have been no evictions or burning-down of homes. Nevertheless, the certificates do not appear adequate to rebut the complaints of violations of the right to housing made by non-governmental organizations of acknowledged reliability.

32. On the basis of the oral explanations given on housing construction and reconstruction, it would appear that, two years after the United States invasion, the results of the plans and projects have been patently inadequate.

33. No information is given on the procedure for distributing the compensation given by the United States Government.

34. There is no information on the situation regarding housing in rural areas.

35. There is no information on the indigenous population.

Article 12: Right to physical and mental health

36. No information is given on environmental hygiene or pollution; although Panama has no heavy industry, there are other polluting agents.

37. It is stated that in Panama the number of persons contaminated with acquired immunodeficiency syndrome (AIDS) has decreased but no explanation is given for the reasons for this trend, which differs from the pattern of this disease elsewhere in the world.

38. The most recent statistics date from March 1987. They are mentioned in the annexes but they have not been received.

39. No information is given on the present number of hospitals or on the vaccination of children, and the statistics relating to doctors are incomplete.

Articles 13 and 14: Right to education

40. The statistics contained in the report to the Economic and Social Council are not recent; most of them date from 1988 and some even from 1980.

41. The figures on illiteracy date from 1980.

42. The presentation of the statistics on the student population does not make it possible to ascertain the percentages or the sectors of coverage.

Article 15: Right to take part in cultural life and to enjoy the benefits of scientific progress and to benefit from the protection of the interests of authors

43. There are no data on the situation with regard to the mass media which were affected by restrictions and government persecution following the United States invasion.

44. The fate of the museums and monuments damaged by the bombing is not known."

198. The Committee took note of the fact that the delegation of Panama was not in a position to answer the questions which the supplementary report of Panama (E/1989/5/Add.8) had indicated would be provided to the Committee at its seventh session.

199. The Committee subsequently decided, in accordance with the procedures for follow-up action adopted at its seventh session, to offer to send to Panama one or two of its members to advise the Government in relation to the matters identified in paragraph 135 of the report on its sixth session (E/1992/23). The Committee noted that the supplementary information provided by the State party had failed to clarify the issues.

200. The Committee requests the Secretary-General to inform the Government of Panama of its decision as soon as possible.

201. At the 23rd meeting, the Committee, having noted that the Government of the Dominican Republic had neither responded to its request for the submission of additional information made clearly at its fifth session (E/1991/23, para. 250) nor to its offer made at the sixth session (E/1992/23, para. 331), and subsequently endorsed by the Economic and Social Council in its decision 1992/261 of 20 July 1992, to send one or two of its members to advise the Government in relation to efforts to promote full compliance with the Covenant in the case of the large-scale evictions referred to in the Committee's reports, decided to adopt the following decision:

"The Committee notes again that the additional information referred to in its report on the sixth session, if accurate, gives rise to serious concern on the part of the Committee. The Committee thus repeats its request to the State party to avoid any actions which are not clearly in conformity with the provisions of the Covenant and also repeats its request for the Government to provide additional information to it as a matter of urgency.

"The Committee requests the Secretary-General to inform the Government of its decision as soon as possible."

Chapter VII

GENERAL DISCUSSION ON THE RIGHT TO TAKE PART IN CULTURAL LIFE AS RECOGNIZED IN ARTICLE 15 OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

202. The Committee, at its sixth session (see E/1992/23, para. 379), decided that at its seventh session a day of general discussion would be devoted to the right to take part in cultural life as recognized in article 15 of the Covenant, and welcomed the readiness of Mr. Samba Cor Konaté to prepare a discussion paper on this subject.

203. The discussion was held on the basis of the paper on the implementation of cultural rights and an analysis of article 15 of the Covenant prepared by Mr. Konaté (E/C.12/1992/WP.4), who opened the discussion.

204. Mr. Konaté, introducing his paper, noted that cultural rights, like economic and social rights, were "underdeveloped" largely because of a lack of clarity in respect to their legal nature and content. The international instruments on human rights restricted the definition of cultural rights to their external aspects. The paper particularly emphasized that culture was at the very core of human dignity and, indeed, of life itself.

205. The right to have access to culture and the need for equal opportunities and non-discrimination, which might be regarded as a group right, was also dealt with in the paper. Participation in cultural life must not be imposed by the authorities and individuals must have the right to be involved in defining cultural policy choices. The right of access to culture entailed the freedom to engage in creative activity, access to means of dissemination and protection of the cultural and artistic heritage.

206. The cultural rights of minorities had not received sufficient attention in the past and the Committee should give priority to considering ways to protect these rights.

207. Mr. Konaté stressed the importance of ensuring equal access for all to scientific and technological progress. Scientific progress has limits, particularly from the ethical point of view and of the perspective of the protection of the environment.

208. Concerning measures to be taken by States parties to ensure the implementation of cultural rights, the author of the paper suggested that the Committee should request them to provide information on the Recommendation adopted unanimously by the UNESCO General Conference at its nineteenth session, held at Nairobi in 1976. Scientific progress should be assessed as a function of economic and social development and States should stress the cultural aspect in economic development programmes. Education must play an important role in ensuring access to culture.

209. Representatives of UNESCO stressed that UNESCO was trying to go beyond the materialistic vision of culture to one that included every aspect of the creativity of individuals and groups, both in their style of life and in their mode of practical activity. Lately, UNESCO had been emphasizing all the

ethical aspects of human life vis-à-vis the problems posed by progress in science, technology and economic development in general. UNESCO shared the Committee's view concerning the growing interdependence of cultural development and development in general as well as the Committee's concern that countries should avoid turning in on themselves and developing cultural prejudices and that a means of more effective international cooperation must be found. UNESCO was giving priority to culture and morality, as well as to education and training, to ensure the sharing of knowledge so as to give culture an important place in national development strategies. UNESCO had recently been giving much attention to democracy and human rights, including the right to culture.

210. The representative of the International Movement for Rights and Humanity noted that the right to participate in cultural life revealed a link between civil and political rights on the one hand and economic, social and cultural rights on the other. The definition of cultural life contained many subjective elements and went far beyond high culture and the arts and clearly included food, languages, religion, music, dance and traditional activities and rituals. For indigenous peoples and many others it affected their very survival and way of life. The protection of minorities had given rise to particular problems in Europe, concerning not only the protection of minority groups in the dominant culture but also their rights to develop and participate in their own cultures.

211. Members of the Committee expressed their profound appreciation to Mr. Konaté for the preparation of a legal analysis of the right to take part in cultural life.

212. Members of the Committee agreed that the rights set out in article 15 were complex, especially as they embraced not only cultural rights and cultural life but also scientific research and its applications. Culture was indeed at the centre of human rights.

213. It was stated that culture meant a way of life. Its elements would be language, non-verbal communication, oral and written literature, song, religion or belief systems which included rites and ceremonies, material culture, including methods of production or technology, livelihood, the natural and man-made environment, food, clothing, shelter, the arts, customs and traditions, plus a world view representing the totality of a person's encounter with the external forces affecting his life and that of his community. Culture mirrored and shaped the economic, social and political life of a community.

214. Participation in cultural life, at the very core of which lay a person's duties and responsibilities towards the common good, gave the individual a feeling of belonging and reinforced his sense of identity. Taking part in cultural life, therefore, embraced all the activities of the individual.

215. It was suggested that States parties should be asked to cite their own cultural indicators which the Committee could compare with the ones it itself used. The Committee could draft questions of a general nature regarding cultural life to elicit responses that would reflect concepts peculiar to a particular culture.

216. In respect of the obligation of States to implement article 15, the Committee was always interested in the practical application of rights. The rights in article 15 had a non-self-executing nature which required States to take legislative or other measures for their application. Furthermore, in the current economic recession cultural rights were the first to be sacrificed.

217. The concept of participation in cultural life has two components. The first was the right to create cultural, literary, artistic and scientific - in a word, spiritual - values. The second component was the right to benefit from cultural values created by the individual or the community. The participation in cultural life included both the right to artistic, literary and scientific creation and the right to enjoy the benefits created by it.

218. Attention needed to be focused on the right to culture in countries in the process of transition, which had abandoned their old systems but did not yet have other kinds of infrastructure to support culture and the arts. That aspect should be reflected in the guidelines and questions addressed to States.

219. Since the elderly were included among the particularly vulnerable and disadvantaged groups, attention should be given to ways and means of enabling them to participate in cultural life.

220. States in their reports concerning the implementation of article 15 of the Covenant should give greatest attention to the following aspects: non-discrimination between cultures since no hierarchy of cultures exists, all being equal and therefore having an equal right to protection; the measures States are taking to allow access to culture by the greatest number of people. There is a danger of growing standardization of culture or the lowering of the level of culture to the lowest common denominator, generally due to the invasion of a cultural model from outside which is accepted purely because of economic factors and due to market forces. Questions would need to be formulated to clarify such situations, in view of the need to protect all cultures and to ensure the survival of those economically unable to compete. With respect to the right to freedom of scientific research, questions should be asked about how to prevent the freedom to engage in scientific research from leading to ecological disasters or how to resolve the ethical problems posed by certain scientific advances such as those in the field of human reproduction.

221. In some cases the protection of cultural rights could clash with economic and social development. The Committee should consider how best to tackle such problems.

222. The Chairman and members of the Committee requested Mr. Konaté to draft recommendations on the obligations of States concerning the right to take part in cultural life on the basis of the comments made by the members of the Committee with respect to article 15 of the Covenant.

223. The Committee decided to study these recommendations at its ninth session.

Chapter VIII

SPECIFIC ISSUES DISCUSSED BY THE COMMITTEE

224. At its fifth session, the Committee discussed in general terms the question of drafting an optional protocol to the International Covenant on Economic, Social and Cultural Rights that would permit the submission of communications pertaining to some or all of the rights recognized in the Covenant. To assist it in further considering this possibility, the Committee requested Mr. Philip Alston to provide it, at its sixth session, with a discussion note outlining the principal issues that would appear to arise in that connection. The Committee also requested Mrs. María de los Angeles Jiménez Butragueño to provide it, at its sixth session, with a discussion note on the problems of the elderly as they relate to the realization of the rights recognized in the Covenant (E/1991/23, paras. 285-286).

225. The requested discussion notes were prepared by Mrs. Jiménez Butragueño (E/C.12/1991/WP.1 and Add.1) and Mr. P. Alston (E/C.12/1991/WP.2) and submitted for consideration by the Committee at its sixth session.

226. The Committee, at its sixth session, considered both discussion notes and decided to request Mrs. Jiménez Butragueño to prepare, on the basis of the discussion note, a draft general comment on the situation of the elderly as it relates to the realization of economic, social and cultural rights for consideration by the Committee at its seventh session (see E/1992/23, para. 356). With respect to the consideration of the drafting of an optional protocol to the International Covenant on Economic, Social and Cultural Rights, the Committee requested Mr. Alston to prepare, in the light of the discussion held by the Committee, a further working paper for consideration by the Committee at its seventh session.

227. The requested papers were prepared by Mrs. Jiménez Butragueño (E/C.12/1992/WP.1) and Mr. Alston (E/C.12/1992/WP.9) and submitted for consideration by the Committee at its seventh session.

A. Consideration by the Committee of a draft general comment on the economic, social and cultural rights of the elderly and the old

228. At its 8th meeting, held on 27 November 1992, the Committee considered a draft general comment prepared by Mrs. Jiménez Butragueño.

229. In the course of the discussion, members of the Committee congratulated Mrs. Jiménez Butragueño on her valuable paper which had awakened an awareness of the problems of the elderly and the retired and which represented a good starting point in the process of the elaboration of a general comment. They commented on both general and specific aspects of the draft under consideration, underlying in particular the need for the Committee, before formulating sound principles, to undertake a thorough study of all available documentation dealing with the problems of the elderly and the old on the one hand, and actual situations in that respect existing in the States parties to

the Covenant on the other. In the latter connection, it was suggested that the Committee should, either through the lists of issues prepared by its pre-sessional working group or orally, request relevant information from the States parties during consideration of their reports.

230. Members felt that it would be inadvisable at this stage to revise the guidelines for the preparation of reports in order to reflect the Committee's concern with the situation of the elderly and the old, as had been suggested in the paper under consideration. Instead, it was suggested that, in order to deepen the Committee's understanding of the problem as well as to further stimulate awareness of it, the day of the general discussion to be held during the Committee's eighth session (10-28 May 1993) be devoted to the economic, social and cultural rights of the elderly and the old. Such a discussion could lead to the adoption of a general comment. Accordingly, the Committee decided not to seek to adopt a general comment at the seventh session.

231. At its 19th meeting, on 8 December 1992, the Committee agreed to appoint Mrs. Jiménez Butragueño as coordinator for the preparation of the Committee's general discussion on the economic, social and cultural rights of the elderly and the old, which had been scheduled to be held on Monday, 24 May 1993.

232. For further information, see chapter X.

B. Consideration by the Committee of the discussion note on a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights

233. At its 11th meeting, held on 1 December 1992, the Committee considered the discussion note prepared by Mr. Alston. After a lively and instructive exchange of views the Committee endorsed the general approach outlined in the paper. It wished to draw attention to the details of the debate, which are recorded in the summary record of its discussions (E/C.12/1992/SR.11). It requested Mr. Alston to prepare a revised and consolidated document which would combine the papers presented at the Committee's sixth and seventh sessions and would reflect the main points made during the debate at the seventh session.

234. The Committee expressed its strong support for the drafting and adoption of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. In order to facilitate further consideration of this proposal by the appropriate organs and by States parties, the Committee decided that the discussion paper on the issue should be annexed both to the report on its seventh session (see annex IV) and to the statement which it adopted to be sent to the World Conference on Human Rights. The Committee noted that the preparation of such a protocol was expressly recommended in the final report of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the realization of economic, social and cultural rights (E/CN.4/Sub.2/1992/16, para. 211). The Committee therefore expressed the hope that the matter would be discussed further in the context of the relevant United Nations organs and noted that it might decide to pursue the issue again at future sessions.

Chapter IX

PREPARATORY ACTIVITIES RELATING TO THE WORLD CONFERENCE ON HUMAN RIGHTS

235. At its 10th meeting, held on 1 December 1992, the Committee discussed issues to be included in the Committee's contribution to the World Conference on Human Rights and entrusted its Chairman, Mr. Philip Alston, to prepare, on the basis of the discussion held by the Committee, a draft statement for submission to the World Conference on Human Rights.

236. At its 18th meeting, held on 7 December 1992, the Committee considered such a draft statement and adopted it, as orally amended (for the text of the statement see annex III to the present report).

237. At its 11th meeting, held on 1 December 1992, the Committee decided that a paper entitled "Towards an optional protocol to the International Covenant on Economic, Social and Cultural Rights", which had been prepared by Mr. Alston at the request of the Committee at its sixth session (E/1992/23, para. 366) and discussed by the Committee at its seventh session, should be annexed to the Committee's statement to the World Conference on Human Rights.

Chapter X

REVIEW OF METHODS OF WORK OF THE COMMITTEE

Introduction

238. At its fourth session, the Committee decided that any proposals which required the approval of the Economic and Social Council should be formulated as draft decisions proposed for adoption by the Council. These drafts are contained in chapter I of the present report.

239. Many other matters relating to the work of the Committee were already covered by past resolutions of the Council. Thus, endorsement by the Council in the case of decisions taken with respect to those matters was not required. Those matters are dealt with in the present chapter.

Procedure in response to non-submitted and considerably overdue reports

240. The Committee notes that many States parties to the Covenant have fallen far behind in relation to the reporting obligations that they have voluntarily undertaken by virtue of ratification of the Covenant. The Committee has consistently urged these States to submit a report as soon as possible. At its sixth session it expressed its "profound concern at the extent of non-compliance with reporting obligations by States parties" (E/1992/23, para. 381).

241. In addition, it has, on several occasions, drawn the attention of the Economic and Social Council to the fact that a significant number of States parties have failed to submit even an initial report despite having ratified the Covenant more than a decade ago. In its decision 1992/260 of 20 July 1992, the Council, in its turn, called upon those particular States to submit reports and specifically noted that they "might wish to avail themselves of the advisory services available from the Centre for Human Rights to assist them in the preparation of their overdue reports".

242. The Committee believes that a situation of persistent non-reporting by States parties risks bringing the entire supervisory procedure into disrepute, thereby undermining one of the foundations of the Covenant. In determining its response to this problem it has taken particular note of the following statement endorsed by the chairpersons of all of the human rights treaty bodies, at their 4th meeting, in 1992:

> "[The chairpersons] note that a persistent and long-term failure to report should not result in the State party concerned being immune from supervision while others, which had reported, were subject to careful

monitoring. Even in the absence of a report, adequate information exists from other appropriate sources on the basis of which an examination, ideally in the form of a dialogue, could be undertaken." (A/47/628, para. 71)

243. Accordingly, the Committee resolved at its sixth session, in 1991, to begin in due course to consider the situation concerning the implementation of the Covenant in respect of each State party whose initial or periodic reports are very significantly overdue. At its seventh session, it resolved to begin scheduling consideration of such reports at its future sessions and to notify the States parties concerned.

244. The Committee hopes that each such State party will move rapidly to submit a report, which would then serve as the basis for the Committee's examination; in this regard the Committee recalls that States parties may, if they wish, in connection with the preparation of their reports, make a request for the advisory services provided by the Centre for Human Rights.

245. The Committee adopts the following procedure:

(a) To select States parties whose reports are considerably overdue on the basis of the length of time involved;

(b) To notify each such State party that the Committee intends to consider the situation with respect to that country at a specified future session;

(c) To move, in the absence of any report, to consider the status of economic, social and cultural rights in the light of all available information;

(d) To authorize its Chairman, in situations where the State party concerned indicates that a report will be provided to the Committee and upon a request from the State party, to defer consideration of the situation for one session but not longer.

Problems caused by last-minute deferrals of the presentation of reports

246. The Committee notes that its ability to schedule its programme of work efficiently has been significantly reduced by the number of last-minute notifications by States parties scheduled to present a report that they will be unable to do so until a future session. Such deferrals also give rise to other difficulties. They include the fact that those who have been planning their activities on the assumption that the report would be presented - including the specialized agencies, other Governments, non-governmental organizations and individuals and groups from the country concerned - are thereby significantly inconvenienced. In addition, the work that has been done on the report by members of the Committee and the questions prepared by the Committee's pre-sessional working group might thereby be rendered less relevant and, in some cases, lose their pertinence altogether.

247. While in such instances there may well be good reasons for deferral, the Committee wishes to emphasize that deferral should only be sought in extreme circumstances. Where deferral is considered to be unavoidable it should be done on the basis of at least three months' notice. Moreover, in any case, the Committee would greatly appreciate receiving an explanation of the reasons for deferral.

248. The Committee, therefore, wishes to urge all States parties not to seek to defer the consideration of their reports once they have been formally scheduled. The Committee recalls that it decided at its fifth session that on the third occasion that a State party's report is scheduled for consideration (i.e. after two deferrals), it would normally proceed with the consideration of the report whether or not a representative of the State party is able to be present. The Committee also notes that it may, in appropriate cases in which there are strong reasons for so doing, decide to proceed with the examination of a report despite a request by a State party for a deferral.

Procedures in relation to follow-up actions

249. In general terms there are two different but related situations in which the Committee might wish to seek additional information, through the appropriate means available to it. They are: (a) where, in the process of examination of a State party's report, the Committee considers that further information is required in order to enable it to conclude the process; and (b) where, for various reasons, the Committee considers that it is desirable to request a State party to submit an additional report dealing with a specific issue.

250. In order to ensure that the Committee is able to carry out its mandate and to be consistent in its approach, it is desirable that the appropriate procedures be spelled out, to the extent possible.

251. In situations in which the Committee considers that additional information is necessary to enable it to continue its dialogue with the State party concerned, there are several options that might be pursued:

(a) The Committee might note that specific issues should be addressed in a detailed manner in the State party's next periodic report, which would normally be due in five years' time;

(b) The Committee might take note specifically of the State party's stated intention to submit additional information in writing, particularly in response to questions posed by the members of the Committee;

(c) The Committee might specifically request that additional information, relating to matters that it would identify, be submitted to the Committee within six months, thus enabling it to be considered by the pre-sessional working group. In general, the working group could recommend one or another of the following responses to the Committee:

(i) That it take note of such information;

(ii) That it adopt specific concluding observations in response to that information; or

(iii) That the matter be pursued through a request for further information;

The fourth possibility would be for the working group to make a recommendation to the Committee's Chairperson that the State party be informed that the Committee would take up the issue at its next session and that, for that purpose, the participation of a representative of the State party in the work of the Committee would be welcome. In such a case, the Chairperson would be authorized to notify the State party accordingly, in advance of the next session of the Committee;

(d) The Committee might determine that the receipt of additional information is urgent and request that it be provided within a given time limit (perhaps 2-3 months). In such a case the Chairperson, in consultation with the members of the Bureau, could be authorized to follow up on the matter with the State party if no response is received or if the response is patently unsatisfactory.

252. In situations in which the Committee considers that it is unable to obtain the information it requires on the basis of the above-mentioned procedures, it may decide to adopt a different approach instead. In particular, the Committee might, as has already been done in connection with two States parties, request that the State party concerned accept a mission consisting of one or two members of the Committee. Such a decision would only be taken once the Committee had satisfied itself that there was no adequate alternative approach available to it and that the information in its possession warranted such an approach. The purposes of such an on-site visit would be: (a) to collect the information necessary for the Committee to continue its constructive dialogue with the State party and to enable it to carry out its functions in relation to the Covenant; and (b) to provide a more comprehensive basis upon which the Committee might exercise its functions in relation to articles 22 and 23 of the Covenant relating to technical assistance and advisory services. The Committee would state specifically the issue(s) in relation to which its representative(s) would seek to gather information from all available sources. The representative(s) would also have the task of considering whether the programme of advisory services administered by the Centre for Human Rights could be of assistance in relation to the specific issue at hand.

253. At the conclusion of the visit the representative(s) would report to the Committee. In light of the report presented by its representative(s) the Committee would then formulate its own conclusions. Those conclusions would relate to the full range of functions carried out by the Committee, including those relating to technical assistance and advisory services.

254. In a case in which the State party concerned does not accept the proposed mission, the Committee would consider making whatever recommendations might be appropriate to the Economic and Social Council.

Resource room for treaty bodies

255. The Committee recalled again the request it had made at its third session for the creation of a "committee resource room" for use by members of all of the treaty bodies and others in the human rights field. It recalled that it had noted with regret at its fourth, fifth and sixth sessions the fact that nothing had been done to respond to that request, despite endorsement of the proposal by the meetings of the chairpersons of human rights treaty bodies in 1988, 1990 and 1992, and repeated endorsement by the Commission on Human Rights.

256. The Committee expressed its dismay at the continuing refusal of the Secretariat to address the question of adequate and sustained access by members of the treaty bodies to the sources of information that are indispensable to the effective functioning of those bodies.

Day of general discussion

257. The Committee decided that at its eighth session a day of general discussion would be held on Monday, 24 May 1993, devoted to the rights of the ageing and the elderly in relation to the rights recognized in the Covenant. For this purpose, the Committee invited all agencies, groups and individuals with specific interest and expertise in these matters to participate in its discussions.

258. It also designated Mrs. María de los Angeles Jiménez Butragueño as the Committee member responsible for the coordination and planning of the general discussion, with the assistance and advice of the Secretariat. In particular, Mrs. Jiménez Butragueño was requested to make contact with all relevant Geneva-based and other United Nations bodies and specialized agencies with an interest in relevant aspects of the issue and with individual experts and special interest groups, including non-governmental organizations, working in this field. Arrangements should be made for interested parties to address the Committee, to submit brief written documents for circulation and to provide other documentation for the benefit of the Committee.

259. The Committee noted that its particular interest was to obtain a clearer understanding of the type of obligations in relation to the ageing and elderly which appeared to flow from the provisions of the Covenant. While the general difficulties confronted by the members of that group were of interest to the Committee, its particular mandate was to explore the ways and means by which the obligations of the States parties to the Covenant could best be applied to ensure the enjoyment of the relevant rights by the groups concerned.

Content and format of the Committee's reports

260. After a brief discussion of the nature of the information currently presented in the Committee's annual reports and of the way in which that information was presented, the Committee decided to request its Chairman to present it with a discussion paper at its eighth session on those issues and on possible options for reform.

Country files

261. The Committee recalled that it had previously requested the establishment by the Secretariat of "a separate file with respect to each of the States parties whose reports were currently pending consideration". In this regard the Committee had explicitly stated that "all available information on the country concerned should be included in that file" (E/1992/23, para. 386). After expressing its disappointment at the paucity of such information available to it at its seventh session, the Committee renewed its request to the Secretariat to ensure that detailed country files were prepared in future. It noted that other treaty bodies had also made very similar requests. In addition to material compiled from reports submitted by the State party concerned to other treaty bodies, material should be drawn from relevant reports submitted to the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, reports by the specialized agencies and other United Nations bodies and, in particular, information from non-governmental sources.

262. The Committee expressed the view that, in the absence of comprehensive alternative sources of information, the prospects that an informed and meaningful constructive dialogue could be conducted with a State party were very limited. It thus requested that the Secretariat should make a special effort to provide the assistance that was urgently required in that regard.

Concluding observations

263. The Committee recalled that it had previously adopted certain criteria which would help to guide it in the adoption of its concluding observations on the reports of States parties (E/1992/23, para. 383). It was agreed that those criteria needed to be broadened so as to focus not only on the extent to which the report and the other information provided (both orally and in writing) were satisfactory or not, but also on the extent to which the situation in the country concerned in terms of the realization of the rights contained in the Covenant was satisfactory.

264. In that regard the Committee noted that other treaty bodies had now adopted an approach rather similar to its own with respect to concluding observations. The desirability of following a more coordinated approach, where appropriate in such matters, was also noted. Accordingly, the Committee decided that it would adopt, at the end of its consideration of each report, concluding observations reflecting the main points of discussion and indicating issues that would require a specific follow-up. Those concluding observations would serve as a starting point for the periodic reports to be submitted by States parties at a later stage.

265. The Committee emphasized the importance of providing the State party, following the examination of its report, with an authoritative statement conveying the views of the Committee on the implementation of the Covenant by that State party. It decided, therefore, that it would, in that respect, follow an approach comparable to that adopted by other treaty bodies, including the Human Rights Committee and the Committee on the Rights of the Child. In future, the Committee's concluding observations would follow a common structure, including an introduction of a general nature, a section on progress achieved, another on factors and difficulties impeding the application of the Covenant, one on the principal subjects of concern and a final one including suggestions and recommendations addressed to the State party.

Cooperation with the specialized agencies

266. The Committee noted that the attendance of representatives of the specialized agencies at its seventh session had been sporadic at best, with the exception of WHO. It expressed its regret at the situation, especially in view of the importance that it attached to the active involvement of the agencies in its work.

Chapter XI

ADOPTION OF THE REPORT

267. At its 21st to 23rd meetings, held on 10 and 11 December 1992, the Committee considered its draft report (E/C.12/1992/CRP.1 and Add. 1-12 and CRP.2 and Add. 1-4) to the Economic and Social Council on the work of its seventh session. The Committee adopted the report as amended in the course of the discussion.

ANNEXES

Annex I

STATES PARTIES TO THE COVENANT AND STATUS OF SUBMISSION OF REPORTS IN ACCORDANCE WITH THE PROGRAMME ESTABLISHED BY ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1988 (LX), DECISION 1985/132, RESOLUTION 1988/4 AND THE REVISED SCHEDULE FOR SUBMISSION OF REPORTS ADOPTED BY THE COMMITTEE AT ITS FOURTH SESSION
(as of 11 December 1992)

State party	Date of entry into force	INITIAL REPORTS			SECOND PERIODIC REPORTS		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
		(Summary records of consideration of reports)					
1. Afghanistan	24 April 1983	E/1990/5/Add.8 (E/C.12/1991/SR.2, 4-6 and 8)					
2. Albania	4 January 1992	Arts. 1-15, due on 30 June 1994					
3. Algeria	12 December 1989	Overdue					
4. Angola	10 April 1992	Arts. 1-15, due on 30 June 1994					
5. Argentina	8 November 1986	Overdue	Overdue	E/1988/5/Add.4 E/1988/5/Add.8 (E/C.12/1990/ SR.18-20)			
6. Australia	10 March 1976	E/1978/8/Add.15 (E/1980/WG.1/ SR.12-13)	E/1980/6/Add.22 (E/1981/WG.1/ SR.18)	E/1982/3/Add.9 (E/1982/WG.1/ SR.13-14)	E/1984/7/Add.22 (E/1985/WG.1/ SR.17, 18 and 21)	E/1986/4/Add.7 (E/1986/WG.1/ SR.10, 11, 13 and 14)	E/1990/7/Add.13 (Pending consideration)
7. Austria	10 December 1978	E/1984/6/Add.17 (E/C.12/1988/ SR.3-4)	E/1980/6/Add.19 (E/1981/WG.1/SR.8)	E/1982/3/Add.37 (E/C.12/1988/SR.3)	Overdue	E/1986/4/Add.8 and Corr.1 (E/1986/WG.1/SR.4 and 7)	Overdue
8. Azerbaijan	13 November 1992	Arts. 1-15, due on 30 June 1994					
9. Barbados	3 January 1976	E/1978/8/Add.33 (E/1982/WG.1/SR.3)	E/1980/6/Add.27 (E/1982/WG.1/ SR.6-7)	E/1982/3/Add.24 (E/1983/WG.1/ SR.14-15)	Overdue		
10. Belarus	3 January 1976	E/1978/8/Add.19 (E/1980/WG.1/ SR.16)	E/1980/6/Add.18 (E/1981/WG.1/ SR.16)	E/1982/3/Add.3 (E/1982/WG.1/ SR.9-10)	E/1984/7/Add.8 (E/1984/WG.1/ SR.13-15)	E/1986/4/Add.19 (E/C.12/1988/ SR.10-12)	E/1990/7/Add.5 (E/C.12/1992/ SR.2, 3 and 12)
11. Belgium	21 July 1983	Overdue					
12. Benin	12 June 1992	Arts. 1-15, due on 30 June 1994					
13. Bolivia	12 November 1982	Overdue					

Annex (continued)

State party	Date of entry into force	INITIAL REPORTS			SECOND PERIODIC REPORTS		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
		(Summary records of consideration of reports)					
14. Brazil	24 April 1992	Arts. 1-15, due on 30 June 1994					
15. Bulgaria	3 January 1976	E/1978/8/Add.24 (E/1980/WG.1/ SR.12)	E/1980/6/Add.29 (E/1982/WG.1/SR.8)	E/1982/3/Add.23 (E/1983/WG.1/ SR.11-13)	E/1984/7/Add.18 (E/1985/WG.1/SR.9 and 11)	E/1986/4/Add.20 (E/C.12/1988/ SR.17-19)	Overdue
16. Burundi	9 August 1990	Overdue					
17. Cambodia	26 August 1992	Arts. 1-15, due on 30 June 1994					
18. Cameroon	27 September 1984	Overdue	E/1986/3/Add.8 (E/C.12/1989/ SR.6-7)	Overdue			
19. Canada	19 August 1976	E/1978/8/Add.32 (E/1982/WG.1/ SR.1-2)	E/1980/6/Add.32 (E/1984/WG.1/SR.4 and 6)	E/1982/3/Add.34 (E/1986/WG.1/ SR.13, 15 and 16)	E/1984/7/Add.28 (E/C.12/1989/SR.8 and 11)	E/1990/6/Add.3 (Pending consideration)	
20. Central African Republic	8 August 1981	Overdue					
21. Chile	3 January 1976	E/1978/8/Add.10 and 28 (E/1980/WG.1/ SR.8-9)	E/1980/6/Add.4 (E/1981/WG.1/SR.7)	E/1982/3/Add.40 (E/C.12/1988/ SR.12, 13 and 16)	E/1984/7/Add.1 (E/1984/WG.1/ SR.11-12)	E/1986/4/Add.18 (E/C.12/1988/ SR.12, 13 and 16)	Overdue
22. Colombia	3 January 1976	E/1978/8/Add.17 (E/1980/WG.1/ SR.15)	E/1986/3/Add.3 (E/1986/WG.1/SR.6 and 9)	E/1982/3/Add.36 (E/1986/WG.1/ SR.15, 21 and 22)	E/1984/7/Add.21/ Rev.1 (E/1986/WG.1/SR.22 and 25)	E/1986/4/Add.25 (E/C.12/1990/ SR.12-14 and 17)	E/1990/7/Add.4 (E/C.12/1991/ SR.17, 18 and 25
23. Congo	5 January 1984	Overdue					
24. Costa Rica	3 January 1976	E/1990/5/Add.3 (E/C.12/1990/SR.38, 40, 41 and 43)			Arts. 1-15, due on 30 June 1993		
25. Côte d'Ivoire	26 June 1992	Arts. 1-15, due on 30 June 1994					
26. Croatia	8 October 1991	Arts. 1-15, due on 30 June 1993					
27. Cyprus	3 January 1976	E/1978/8/Add.21 (E/1980/WG.1/ SR.17)	E/1980/6/Add.3 (E/1981/WG.1/SR.6)	E/1982/3/Add.19 (E/1983/WG.1/ SR.7-8)	E/1984/7/Add.13 (E/1984/WG.1/SR.18 and 22)	E/1986/4/Add.2 and 26 (E/C.12/1990/SR.2, 3 and 5)	Overdue

Annex (continued)

State party	Date of entry into force	INITIAL REPORTS			SECOND PERIODIC REPORTS		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
		(Summary records of consideration of reports)					
28. Czech and Slovak Federal Republic	23 March 1976	E/1978/8/Add.18 (E/1981/WG.1/ SR.1-2)	E/1980/6/Add.21 (E/1981/WG.1/SR.3)	E/1982/3/Add.18 (E/1983/WG.1/ SR.6-7)	E/1984/7/Add.25 (E/C.12/1987/ SR.12-15)	E/1986/4/Add.15 (E/C.12/1987/ SR.12-15)	E/1990/7/Add.6 (Withdrawn)
29. Democratic People's Republic of Korea	14 December 1981	E/1984/6/Add.7 (E/C.12/1987/ SR.21-22)	E/1986/3/Add.5 (E/C.12/1987/ SR.21-22)	E/1988/5/Add.6 (E/C.12/1991/ SR.6, 8 and 10)	Overdue		
30. Denmark	3 January 1976	E/1978/8/Add.13 (E/1980/WG.1/ SR.10)	E/1980/6/Add.15 (E/1981/WG.1/ SR.12)	E/1982/3/Add.20 (E/1983/WG.1/ SR.8-9)	E/1984/7/Add.11 (E/1984/WG.1/ SR.17 and 21)	E/1986/4/Add.16 (E/C.12/1988/ SR.8-9)	Overdue
31. Dominican Republic	4 April 1978	E/1990/5/Add.4 (E/C.12/1990/SR.43-45 and 47)			Arts. 1-15, due on 30 June 1994		
32. Ecuador	3 January 1976	E/1978/8/Add.1 (E/1980/WG.1/ SR.4-5)	E/1986/3/Add.14 E/1988/5/Add.7 (E/C.12/1990/SR.37-39 and 42)		E/1984/7/Add.12 (E/1984/WG.1/ SR.20 and 22)	Overdue	
33. Egypt	14 April 1982	Overdue					
34. El Salvador	29 February 1980	Overdue					
35. Equatorial Guinea	25 December 1987	Overdue					
36. Estonia	21 January 1992	Arts. 1-15, due on 30 June 1994					
37. Finland	3 January 1976	E/1978/8/Add.14 (E/1980/WG.1/SR.6)	E/1980/6/Add.11 (E/1981/WG.1/ SR.10)	E/1982/3/Add.28 (E/1984/WG.1/ SR.7-8)	E/1984/7/Add.14 (E/1984/WG.1/ SR.17-18)	E/1986/4/Add.4 (E/1986/WG.1/ SR.8, 9 and 11)	E/1990/7/Add.1 (E/C.12/1991/ SR.11, 12 and 16
38. France	4 February 1981	E/1984/6/Add.11 (E/1986/WG.1/ SR.18-19 and 21)	E/1986/3/Add.10 (E/C.12/1989/ SR.12-13)	E/1982/3/Add.30 and Corr.1 (E/1985/WG.1/ SR.5 and 7)	Overdue		
39. Gabon	21 April 1983	Overdue					
40. Gambia	29 March 1979	Overdue					

Annex (continued)

State party	Date of entry into force	INITIAL REPORTS			SECOND PERIODIC REPORTS		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
		(Summary records of consideration of reports)					
41. Germany	3 January 1976	E/1978/8/Add.8 and Corr.1 (E/1980/WG.1/SR.8) E/1978/8/Add.11 (E/1980/WG.1/ SR.10)	E/1980/6/Add.6 (E/1981/WG.1/SR.8) E/1980/6/Add.10 (E/1981/WG.1/ SR.10)	E/1982/3/Add.15 and Corr.1 (E/1983/WG.1/ SR.5-6) E/1982/3/Add.14 (E/1982/WG.1/ SR.17-18)	E/1984/7/Add.3 and 23 (E/1985/WG.1/ SR.12 and 16) E/1984/7/Add.24 and Corr.1 (E/1986/WG.1/ SR.22-23 and 25)	E/1986/4/Add.11 (E/C.12/1987/ SR.11, 12 and 14) E/1986/4/Add.10 (E/C.12/1987/ SR.19-20)	E/1990/7/Add.12 (Pending consideration)
42. Greece	16 August 1985	Overdue					
43. Grenada	6 December 1991	Arts. 1-15, due on 30 June 1993					
44. Guatemala	19 August 1988	Overdue					
45. Guinea	24 April 1978	Overdue					
46. Guinea-Bissau	2 October 1992	Arts. 1-15, due on 30 June 1994					
47. Guyana	15 May 1977	Overdue	Overdue	E/1982/3/Add.5, 29 and 32 (E/1984/WG.1/ SR.20 and 22 and E/1985/WG.1/SR.6)			
48. Honduras	17 May 1981	Overdue					
49. Hungary	3 January 1976	E/1978/8/Add.7 (E/1980/WG.1/SR.7)	E/1980/6/Add.37 (E/1986/WG.1/ SR.6, 7 and 9)	E/1982/3/Add.10 (E/1982/WG.1/ SR.14)	E/1984/7/Add.15 (E/1984/WG.1/ SR.19 and 21)	E/1986/4/Add.1 (E/1986/WG.1/ SR.6-7 and 9)	E/1990/7/Add.10 (E/C.12/1992/ SR.9, 12 and 21)
50. Iceland	22 November 1979	E/1990/5/Add.6 (Pending consideration)					
51. India	10 July 1979	E/1984/6/Add.13 (E/1986/WG.1/ SR.20 and 24)	E/1980/6/Add.34 (E/1984/WG.1/ SR.6 and 8)	E/1988/5/Add.5 (E/C.12/1990/ SR.16-17 and 19)	Overdue		
52. Iran (Islamic Republic of)	3 January 1976	E/1990/5/Add.9 (Pending consideration)		E/1982/3/Add.43 (E/C.12/1990/ SR.42, 43 and 45)			

Annex I (continued)

State party	Date of entry into force	INITIAL REPORTS			SECOND PERIODIC REPORTS		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
		(Summary records of consideration of reports)					
53. Iraq	3 January 1976	E/1984/6/Add.3 and 8 (E/1985/WG.1/ SR.8 and 11)	E/1980/6/Add.14 (E/1981/WG.1/ SR.12)	E/1982/3/Add.26 (E/1985/WG.1/ SR.3-4)	Overdue	E/1986/4/Add.3 (E/1986/WG.1/ SR.8 and 11)	Overdue
54. Ireland	8 March 1990	Overdue					
55. Israel	3 January 1992	Arts. 1-15, due on 30 June 1994					
56. Italy	15 December 1978	E/1978/8/Add.34 (E/1982/WG.1/ SR.3-4)	E/1980/6/Add.31 and 36 (E/1984/WG.1/ SR.3 and 5)		E/1990/6/Add.2 (E/C.12/1992/SR.13, 14 and 21)		
57. Jamaica	3 January 1976	E/1978/8/Add.27 (E/1980/WG.1/ SR.20)	E/1986/3/Add.12 (E/C.12/1990/ SR.10-12 and 15)	E/1988/5/Add.3 (E/C.12/1990/ SR.10-12 and 15)	E/1984/7/Add.30 (E/C.12/1990/ SR.10-12 and 15)	Arts. 10-15, due on 30 June 1993	
58. Japan	21 September 1979	E/1984/6/Add.6 and Corr.1 (E/1984/WG.1/ SR.9-10)	E/1986/3/Add.4 and Corr.1 (E/1986/WG.1/ SR.20, 21 and 23)	E/1982/3/Add.7 (E/1982/WG.1/ SR.12-13)	Overdue		
59. Jordan	3 January 1976	E/1984/6/Add.15 (E/C.12/1987/ SR.6-8)	E/1986/3/Add.6 (E/C.12/1987/ SR.8)	E/1982/3/Add.38/ Rev.1 (E/C.12/1991/ SR.30-32)	Overdue		
60. Kenya	3 January 1976	Overdue					
61. Latvia	14 July 1992	Arts. 1-15, due on 30 June 1994					
62. Lebanon	3 January 1976	Overdue					
63. Lesotho	9 December 1992	Arts. 1-15, due on 30 June 1994					
64. Libyan Arab Jamahiriya	3 January 1976	Overdue	Overdue	E/1982/3/Add.6 and 25 (E/1983/WG.1/ SR.16-17)			
65. Lithuania	20 February 1992	Arts. 1-15, due on 30 June 1994					
66. Luxembourg	18 November 1983	E/1990/5/Add.1 (E/C.12/1990/SR.33-36)			Arts. 1-15, due on 30 June 1993		

Annex (continued)

State party	Date of entry into force	INITIAL REPORTS			SECOND PERIODIC REPORTS		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
		(Summary records of consideration of reports)					
67. Madagascar	3 January 1976	E/1978/8/Add.29 (E/1981/WG.1/ SR.2)	E/1980/6/Add.39 (E/1986/WG.1/ SR.2-3 and 5)	Overdue	E/1984/7/Add.19 (E/1985/WG.1/ SR.14 and 18)	Overdue	Overdue
68. Mali	3 January 1976	Overdue					
69. Malta	13 December 1990	Overdue					
70. Mauritius	3 January 1976	Overdue					
71. Mexico	23 June 1981	E/1984/6/Add.2 and 10 (E/1986/WG.1/ SR.24, 26 and 28)	E/1986/3/Add.13 (E/C.12/1990/ SR.6, 7 and 9)	E/1982/3/Add.8 (E/1982/WG.1/ SR.14-15)	E/1990/6/Add.4 (Pending consideration)		
72. Mongolia	3 January 1976	E/1978/8/Add.6 (E/1980/WG.1/ SR.7)	E/1980/6/Add.7 (E/1981/WG.1/ SR.8-9)	E/1982/3/Add.11 (E/1982/WG.1/ SR.15-16)	E/1984/7/Add.6 (E/1984/WG.1/ SR.16 and 18)	E/1986/4/Add.9 (E/C.12/1988/ SR.5 and 7)	Overdue
73. Morocco	3 August 1979	Overdue					
74. Nepal	14 August 1991	Arts. 1-15, due on 30 June 1993					
75. Netherlands	11 March 1979	E/1984/6/Add.14 and 20 (E/C.12/1987/ SR.5-6) (E/C.12/1989/ SR.14-15)	E/1980/6/Add.33 (E/1984/WG.1/ SR.4-6 and 8)	E/1982/3/Add.35 and 44 (E/1986/WG.1/ SR.14 and 18) (E/C.12/1989/ SR.14-15)	Overdue	E/1986/4/Add.24 (E/C.12/1989/ SR.14-15)	Overdue
76. New Zealand	28 March 1979	E/1990/5/Add.5, 11 and 12 (Pending consideration)					
77. Nicaragua	12 June 1980	E/1984/6/Add.9 (E/1986/WG.1/ SR.16-17 and 19)	E/1986/3/Add.15 (Pending consideration)	E/1982/3/Add.31 and Corr.1 (E/1985/WG.1/ SR.15)			
78. Niger	7 June 1986	Overdue					

Annex (continued)

State party	Date of entry into force	INITIAL REPORTS			SECOND PERIODIC REPORTS		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
		(Summary records of consideration of reports)					
79. Norway	3 January 1976	E/1978/8/Add.12 (E/1980/WG.1/ SR.5)	E/1980/6/Add.5 (E/1981/WG.1/ SR.14)	E/1982/3/Add.12 (E/1982/WG.1/ SR.16)	E/1984/7/Add.16 (E/1984/WG.1/ SR.19 and 22)	E/1986/4/Add.21 (E/C.12/1988/ SR.14-15)	E/1990/7/Add.7 (E/C.12/1992/ SR.4, 5 and 12)
80. Panama	8 June 1977	E/1984/6/Add.19 (E/C.12/1991/ SR.3, 5 and 8)	E/1980/6/Add.20 and 23 (E/1982/WG.1/ SR.5)	E/1988/5/Add.9 (E/C.12/1991/ SR.3, 5 and 8)	Overdue	E/1986/4/Add.22 (E/C.12/1991/ SR.3, 5 and 8)	Overdue
81. Paraguay	10 September 1992	Arts. 1-15, due on 30 June 1994					
82. Peru	28 July 1978	E/1984/6/Add.5 (E/1984/WG.1/ SR.11 and 18)	Overdue	Overdue			
83. Philippines	3 January 1976	E/1978/8/Add.4 (E/1980/WG.1/ SR.11)	Overdue	E/1988/5/Add.2 (E/C.12/1990/ SR.8, 9 and 11)	E/1984/7/Add.4 (E/1984/WG.1/ SR.15 and 20)		
84. Poland	18 June 1977	E/1978/8/Add.23 (E/1980/WG.1/ SR.18-19)	E/1980/6/Add.12 (E/1981/WG.1/ SR.11)	E/1982/3/Add.21 (E/1983/WG.1/ SR.9-10)	E/1984/7/Add.26 and 27 (E/1986/WG.1/ SR.25-27)	E/1986/4/Add.12 (E/C.12/1989/ SR.5-6)	E/1990/7/Add.9 (E/C.12/1992/ SR.6, 7 and 15)
85. Portugal	31 October 1978		E/1980/6/Add.35/ Rev.1 (E/1985/WG.1/ SR.2 and 4)	E/1982/3/Add.27/ Rev.1 (E/1985/WG.1/ SR.6 and 9)	Overdue		
86. Republic of Korea	10 July 1990	Overdue					
87. Romania	3 January 1976	E/1978/8/Add.20 (E/1980/WG.1/ SR.16-17)	E/1980/6/Add.1 (E/1981/WG.1/ SR.5)	E/1982/3/Add.13 (E/1982/WG.1/ SR.17-18)	E/1984/7/Add.17 (E/1985/WG.1/ SR.10 and 13)	E/1986/4/Add.17 (E/C.12/1988/ SR.6)	Overdue
88. Russian Federation	3 January 1976	E/1978/8/Add.16 (E/1980/WG.1/ SR.14)	E/1980/6/Add.17 (E/1981/WG.1/ SR.14-15)	E/1982/3/Add.1 (E/1982/WG.1/ SR.11-12)	E/1984/7/Add.7 (E/1984/WG.1/ SR.9-10)	E/1986/4/Add.14 (E/C.12/1987/ SR.16-18)	E/1990/7/Add.8 (Pending consideration)

Annex (continued)

State party	Date of entry into force	INITIAL REPORTS			SECOND PERIODIC REPORTS		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
		(Summary records of consideration of reports)					
89. Rwanda	3 January 1976	E/1984/6/Add.4 (E/1984/WG.1/ SR.10 and 12)	E/1986/3/Add.1 (E/1986/WG.1/ SR.16 and 19)	E/1982/3/Add.42 (E/C.12/1989/ SR.10-12)	E/1984/7/Add.29 (E/C.12/1989/ SR.10-12)	Overdue	Overdue
90. Saint Vincent and the Grenadines	9 February 1982	Overdue					
91. San Marino	18 January 1986	Overdue					
92. Senegal	13 May 1978	E/1984/6/Add.22 (Pending consideration)	E/1980/6/Add.13/ Rev.1 (E/1981/WG.1/ SR.11)	E/1982/3/Add.17 (E/1983/WG.1/ SR.14-16)			
93. Seychelles	5 August 1992	Arts. 1-15, due on 30 June 1994					
94. Slovenia	6 July 1992	Arts. 1-15, due on 30 June 1994					
95. Solomon Islands	17 March 1982	Overdue					
96. Somalia	24 April 1990	Overdue					
97. Spain	27 July 1977	E/1978/8/Add.26 (E/1980/WG.1/ SR.20)	E/1980/6/Add.28 (E/1982/WG.1/ SR.7)	E/1982/3/Add.22 (E/1983/WG.1/ SR.10-11)	E/1984/7/Add.2 (E/1984/WG.1/ SR.12 and 14)	E/1986/4/Add.6 (E/1986/WG.1/ SR.10 and 13)	E/1990/7/Add.3 (E/C.12/1991/ SR.13, 14, 16 and 22)
98. Sri Lanka	11 September 1980	Overdue					
99. Sudan	18 June 1986	Overdue					
100. Suriname	28 March 1977	Overdue					
101. Sweden	3 January 1976	E/1978/8/Add.5 (E/1980/WG.1/ SR.15)	E/1980/6/Add.8 (E/1981/WG.1/ SR.9)	E/1982/3/Add.2 (E/1982/WG.1/ SR.19-20)	E/1984/7/Add.5 (E/1984/WG.1/ SR.14 and 16)	E/1986/4/Add.13 (E/C.12/1988/ SR.10-11)	E/1990/7/Add.2 (E/C.12/1991/ SR.11-13 and 18)
102. Switzerland	18 September 1992	Arts. 1-15, due on 30 June 1994					
103. Syrian Arab Republic	3 January 1976	E/1978/8/Add.25 and 31 (E/1983/WG.1/ SR.2)	E/1980/6/Add.9 (E/1981/WG.1/ SR.4)		E/1990/6/Add.1 (E/C.12/1991/SR.7, 9 and 11)		
104. Togo	24 August 1984	Overdue					

Annex (continued)

State party	Date of entry into force	INITIAL REPORTS			SECOND PERIODIC REPORTS		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
		(Summary records of consideration of reports)					
105. Trinidad and Tobago	8 March 1979	E/1984/6/Add.21 E/1986/3/Add.11 (E/C.12/1989/SR.17-19)		E/1988/5/Add.1	Arts. 1-15, due on 30 June 1993		
106. Tunisia	3 January 1976	E/1978/8/Add.3 (E/1980/WG.1/SR.5-6)	E/1986/3/Add.9 (E/C.12/1989/SR.9)	Overdue			
107. Uganda	21 April 1987	Overdue					
108. Ukraine	3 January 1976	E/1978/8/Add.22 (E/1980/WG.1/SR.18)	E/1980/6/Add.24 (E/1982/WG.1/SR.5-6)	E/1982/3/Add.4 (E/1982/WG.1/SR.11-12)	E/1984/7/Add.9 (E/1984/WG.1/SR.13-15)	E/1986/4/Add.5 (E/C.12/1987/SR.9-11)	E/1990/7/Add.11 (Pending consideration)
109. United Kingdom of Great Britain and Northern Ireland	20 August 1976	E/1978/8/Add.9 and 30 (E/1980/WG.1/SR.19 and E/1982/WG.1/SR.1)	E/1980/6/Add.16 and Corr.1, Add.25 and Corr.1 and Add.26 (E/1981/WG.1/SR.16-17)	E/1982/3/Add.16 (E/1982/WG.1/SR.19-21)	E/1984/7/Add.20 (E/1985/WG.1/SR.14 and 17)	E/1986/4/Add.23 (E/C.12/1989/SR.16-17)	Overdue
110. United Republic of Tanzania	11 September 1976	Overdue	E/1980/6/Add.2 (E/1980/WG.1/SR.5)	Overdue			
111. Uruguay	3 January 1976	E/1990/5/Add.7 (Pending consideration)					
112. Venezuela	10 August 1978	E/1984/6/Add.1 (E/1984/WG.1/SR.7-8 and 10)	E/1980/6/Add.38 (E/1986/WG.1/SR.2 and 5)	E/1982/3/Add.33 (E/1986/WG.1/SR.12, 17 and 18)	Overdue		
113. Viet Nam	24 December 1982	E/1990/5/Add.10 (Pending consideration)					
114. Yemen	9 May 1987	Arts. 1-15, due on 30 June 1993					
115. Yugoslavia	3 January 1976	E/1978/8/Add.35 (E/1982/WG.1/SR.4-5)	E/1980/6/Add.30 (E/1983/WG.1/SR.3)	E/1982/3/Add.39 (E/C.12/1988/SR.14-15)	E/1984/7/Add.10 (E/1984/WG.1/SR.16 and 18)	Overdue	Overdue

Annex (concluded)

State party	Date of entry into force	INITIAL REPORTS			SECOND PERIODIC REPORTS		
		Articles 6-9	Articles 10-12	Articles 13-15	Articles 6-9	Articles 10-12	Articles 13-15
		(Summary records of consideration of reports)					
116. Zaire	1 February 1977	E/1984/6/Add.18 E/1986/3/Add.7 E/1982/3/Add.41 (E/C.12/1988/SR.16-19)			Overdue		
117. Zambia	10 July 1984	Overdue	E/1986/3/Add.2 (E/1986/WG.1/ SR.4-5 and 7)	Overdue			
118. Zimbabwe	13 August 1991	Arts. 1-15, due on 30 June 1993					

Annex II

MEMBERSHIP OF THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Name of member	Country of nationality	Term expires on 31 December
Mr. Philip ALSTON	Australia	1994
Mr. Juan ALVAREZ VITA	Peru	1992
Mr. Abdel Halim BADAWI	Egypt	1994
Mrs. Virginia BONOAN-DANDAN	Philippines	1994
Mr. Mohamed Lamine FOFANA	Guinea	1992
Mrs. Luvsandanzangiin IDER	Mongolia	1994
Mrs. María de los Angeles JIMENEZ BUTRAGUEÑO	Spain	1992
Mr. Samba Cor KONATE	Senegal	1992
Mr. Valeri I. KOUZNETSOV	Russian Federation	1994
Mr. Jaime Alberto MARCHAN ROMERO	Ecuador	1994
Mr. Vassil I. MRATCHKOV	Bulgaria	1992
Mr. Alexandre MUTERAHEJURU	Rwanda	1994
Mr. Wladyslaw NENEMAN	Poland	1992
Mr. Kenneth Osborne RATTRAY	Jamaica	1992
Mr. Bruno SIMMA	Germany	1994
Mr. Mikis Demetriou SPARSIS	Cyprus	1992
Mr. Philippe TEXIER	France	1992
Mr. Javier WIMER ZAMBRANO	Mexico	1994

Annex III

STATEMENT TO THE WORLD CONFERENCE ON HUMAN RIGHTS ON BEHALF OF THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

(adopted by the Committee on 7 December 1992)

1. The preamble to each of the International Covenants on Human Rights recognizes 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". In the 45 years since the adoption of the Universal Declaration of Human Rights various formulations have been used to describe the relationship between the two categories of rights. They have been said variously to be interrelated, interdependent and indivisible. While preferences have sometimes been expressed for the use of one or another of these terms, the Committee believes that such debates must not be permitted to distract attention from the fact that respect for both categories of rights must go hand in hand.

2. This principle constitutes one of the fundamental underpinnings of the international consensus on human rights norms, and has been endorsed on innumerable occasions by the General Assembly, the Economic and Social Council and the Commission on Human Rights, and reflected in a wide range of treaty undertakings at both universal and regional levels. Nevertheless, in practice it has often been more honoured in the breach than in the observance. In 1993, as the United Nations celebrates the forty-fifth anniversary of the adoption of the Universal Declaration and the holding of the World Conference on Human Rights, it is imperative that full and careful consideration be given to the various ways and means by which the principle of indivisibility can be implemented and the situation of economic, social and cultural rights can be improved.

3. The Committee wishes to emphasize that full realization of human rights can never be achieved as a mere by-product, or fortuitous consequence, of some other developments, no matter how positive. For that reason, suggestions that the full realization of economic, social and cultural rights will be a direct consequence of, or will flow automatically from, the enjoyment of civil and political rights are misplaced. Such optimism is neither compatible with the basic principles of human rights nor is it supported by empirical evidence. The reality is that every society must work in a deliberate and carefully structured way to ensure the enjoyment by all of its members of their economic, social and cultural rights. Respect for civil and political rights is an indispensable condition for the full realization of all human rights; there is, however, no basis whatsoever to assume that the realization of economic, social and cultural rights will necessarily accompany, or result from, the realization of civil and political rights.

4. Just as carefully targeted policies and unremitting vigilance are necessary to ensure that respect for civil and political rights will follow from, for example, the holding of free and fair elections or from the

introduction or restoration of an essentially democratic system of government, so too is it essential that specific policies and programmes be devised and implemented by any Government which aims to ensure the respect of the economic, social and cultural rights of its citizens and of others for whom it is responsible.

5. The shocking reality, against the background of which this challenge must be seen, is that States and the international community as a whole continue to tolerate all too often breaches of economic, social and cultural rights which, if they occurred in relation to civil and political rights, would provoke expressions of horror and outrage and would lead to concerted calls for immediate remedial action. In effect, despite the rhetoric, violations of civil and political rights continue to be treated as though they were far more serious, and more patently intolerable, than massive and direct denials of economic, social and cultural rights.

6. This is also true in relation to discriminatory policies and practices. Denial of the right to vote or of the right to freedom of speech, solely on the grounds of race or sex, is loudly and rightly condemned by the international community. Yet deep-rooted forms of discrimination in the enjoyment of economic, social and cultural rights against women, the elderly, the disabled and other vulnerable and disadvantaged groups are all too often tolerated as unfortunate realities. Thus, for example, many human rights advocates have little to say in response to the fact that women in many countries "are generally rewarded [for the disporportionate work burden they bear] with less food, less health care, less education, less training, less leisure, less income, less rights and less protection". a/

7. Statistical indicators of the extent of deprivation, or breaches, of economic, social and cultural rights have been cited so often that they have tended to lose their impact. The magnitude, severity and constancy of that deprivation have provoked attitudes of resignation, feelings of helplessness and compassion fatigue. Such muted responses are facilitated by a reluctance to characterize the problems that exist as gross and massive denials of economic, social and cultural rights. Yet it is difficult to understand how the situation can realistically be portrayed in any other way.

8. The fact that one fifth of the world's population is afflicted by poverty, hunger, disease, illiteracy and insecurity is sufficient grounds for concluding that the economic, social and cultural rights of those persons are being denied on a massive scale. Yet there continue to be staunch human rights proponents - individuals, groups and Governments - who completely exclude these phenomena from their concerns. Such an approach to human rights is inhumane, distorted and incompatible with international standards. It is, in addition, ultimately self-defeating.

9. Democracy, stability and peace cannot long survive in conditions of chronic poverty, dispossession and neglect. Political freedom, free markets and pluralism have been embraced with enthusiasm by an ever-increasing number of peoples in recent years, in part because they have seen them as the best prospect of achieving basic economic, social and cultural rights. If that

quest proves to be futile the pressures in many societies to revert to authoritarian alternatives will be immense. Moreover, such failures will generate renewed large-scale movements of peoples involving additional flows of refugees, migrants and so-called "economic refugees", with all of their attendant tragedy and problems. As the Secretary-General has noted in his report on the work of the Organization submitted to the General Assembly at its forty-seventh session:

> "Political progress and economic development are inseparable: both are equally important and must be pursued simultaneously. Political stability is needed to develop effective economic policies, but when economic conditions deteriorate too much ... divisive political strife may take root." b/

10. The increasing emphasis being placed on free market policies brings with it a far greater need to ensure that appropriate measures are taken to safeguard and promote economic, social and cultural rights. Even the most ardent supporters of the free market have generally acknowledged that it is incapable, of its own accord, of protecting many of the most vulnerable and disadvantaged members of society. For that reason the concept of social safety nets has been widely promoted. While this concept has much to recommend it, it is imperative that it be defined so as to cover the full range of human rights and that it be formulated in terms of rights rather than charity or generosity. Safety nets which can be removed at the whim of the Government or other actors cannot therefore provide adequate protection for economic, social and cultural rights.

11. Despite the particular problems confronting many developing countries and other countries in transition, the failure to take seriously the denial of economic, social and cultural rights has not been the exclusive preserve of any particular group of countries. Indeed, the situation in those countries is too often the subject of gross over-generalizations which ignore the fact that some of the Governments concerned have done far more to promote the realization of economic, social and cultural rights than have others.

12. The same is true of Governments in the industrialized countries. Some of them tend to assume that the existence of a genuinely democratic system and the generation of relatively high levels of per capita income are sufficient evidence of comprehensive respect for human rights. Yet, the Committee's experience shows that such conditions are perfectly capable of coexisting with significant areas of neglect of the basic economic, social and cultural rights of large numbers of their citizens. High infant mortality rates, a significant incidence of hunger or malnutrition, mass unemployment, large-scale homelessness and high drop-out rates from educational institutions are all indicators, at least prima facie, of violations of economic, social and cultural rights and hence of human rights.

13. Despite the fact that some progress has been made in recent years, the Committee believes that there remain many steps which urgently need to be taken in order to promote effectively the progressive realization of these rights in the years ahead.

14. The first step is for all States Members of the United Nations to ratify or accede to the two International Covenants on Human Rights. The Committee notes that there are more than 60 States which have not yet taken this step and it urges them to give the most careful consideration to ratification or accession. In addition, those States which have become parties to only one of the International Covenants, but not the other, should take careful account of the implications of such selectivity in terms of the basic notion of the interdependence of the two categories of rights.

15. The Committee also wishes to emphasize the importance that it ataches to the reporting obligation accepted by States parties when they ratify or accede to the Covenant. Failure to report at all, or failure to do so within a reasonable period, constitute a breach of an important obligation contained in the Covenant vis-à-vis the international community. It is therefore desirable that means be explored by the World Conference to emphasize the unacceptability of such practices.

16. In the case of States which are parties to the Covenant, the most pressing challenge is to demonstrate that their commitment to economic, social and cultural rights is a genuine and enduring one. As the Committee has previously observed, this can best be done by the establishment by each State party of benchmarks which enable the Government concerned to ascertain the full extent to which the minimum core content of the basic rights in question is being satisfied. In addition, Governments should establish appropriate national and local mechanisms by which they and other relevant actors can be called to account in relation to situations in which the enjoyment of economic, social and cultural rights is clearly being denied.

17. It has often been suggested that these rights are not justiciable, by which it is meant that they are lacking in any elements which might be susceptible of determination by the courts. It is clear, however, that many and perhaps all of the rights do have at least some elements which are already, in the law and practice of some States justiciable. Moreover, there are many more innovative approaches by which meaningful administrative or judicial remedies might be provided to individuals or groups claiming that their economic, social and cultural rights have been violated. These possibilities have been given insufficient attention in most countries not because of their legal or other complexities but because Governments have not been prepared to show the necessary political will and the commitment to economic and social justice.

18. The international community has long recognized the desirability of providing individuals with the possibility of seeking redress in instances where they consider their human rights to have been violated (such as, for example, in the form of the right to an effective remedy, as recognized in article 2(3) of the International Covenant on Civil and Political Rights). Accordingly, and in recognition of the fact that many of the principal international human rights treaties already have such procedures, the Committee believes that there are strong reasons for adopting a complaints procedure (in the form of an optional protocol to the Covenant) in respect of

the economic, social and cultural rights recognized in the Covenant. c/ Such a procedure would be entirely non-compulsory and would permit communications to be submitted by individuals or groups alleging violations of the rights recognized in the Covenant. It might also include an optional procedure for the consideration of inter-State complaints. Various procedural safeguards designed to guard against abuse of the procedure would be adopted. They would be similar in nature to those applying under the First Optional Protocol to the International Covenant on Civil and Political Rights.

Notes

a/ United Nations Children's Fund, The State of the World's Children, 1992 (New York, UNICEF, 1992), p. 57.

b/ A/47/1, para. 64.

c/ This proposal is considered in detail in the paper annexed to the present statement and to the report of the Committee on its seventh session (Annex IV).

Annex IV

TOWARDS AN OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

(Analytical paper adopted by the Committee on Economic, Social and Cultural Rights at its seventh session, 11 December 1992)

A. Introduction

1. At its fifth session the Committee on Economic, Social and Cultural Rights requested its Rapporteur at the time to present it with a discussion note outlining the principal issues that would arise in connection with the drafting of an optional protocol to the International Covenant on Economic, Social and Cultural Rights "which would permit the submission of communications pertaining to some or all of the rights recognized in the Covenant". a/

2. Accordingly, a discussion note was presented to the Committee at its sixth session. b/ As the Committee's report on that session notes:

> "The members of the Committee ... supported the drafting of an optional protocol since that would enhance the practical implementation of the Covenant as well as the dialogue with States parties and would make it possible to focus the attention of public opinion to a greater extent on economic, social and cultural rights. The Covenant would no longer be considered as a 'poor relation' of the human rights instruments. Members stressed that the doctrine of the interdependence and indivisibility of human rights should form the basis of any work done by the Committee on drawing up such a draft. In the course of that work, without underestimating the difficulties stemming from the nature and the complexity of the rights guaranteed in the Covenant, it would be appropriate to initiate a dialogue or process which would make it possible, on the one hand, to identify the areas that lent themselves to the gradual development of such a recourse procedure and, on the other hand, to avoid any possible overlapping with the procedures existing under other international human rights instruments." c/

3. In the context of the same debate within the Committee, a number of issues were identified in relation to which it was considered that further analysis would be desirable. For that reason, the Committee agreed at its sixth session to request that a supplementary working paper, addressing the specific issues raised in the preceding discussions, be drafted for consideration at its seventh session.

4. A further working paper was prepared accordingly and discussed by the Committee at its seventh session. The details of its consideration of that paper are recorded in the summary record. d/ The Committee endorsed the

general approach and requested the preparation of a revised and consolidated document which would combine the two discussion papers presented at the Committee's sixth and seventh sessions and which would also take account of the main points made during the debate at the Committee's seventh session.

5. The Committee expressed its strong support for the drafting and adoption of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. In order to facilitate further consideration of this proposal by the appropriate organs and by States parties, the Committee decided that the present analytical paper should be annexed both to the report on its seventh session and to the statement which it adopted to be sent to the World Conference on Human Rights (see annex III).

6. The Committee also noted that the preparation of an optional protocol was expressly recommended by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the realization of economic, social and cultural rights in his final report (E/CN.4/Sub.2/1992/16, para. 211). It therefore expressed the hope that the matter would be discussed further by the relevant United Nations organs and noted that it might decide to pursue the issue again at future sessions.

B. Preliminary considerations

7. By way of introduction to the consideration of this issue several specific aspects of the proposal deserve to be emphasized.

8. First, it is important to note that any protocol to the Covenant will be strictly optional and will thus only be applicable to those States parties which specifically agree to it by way of ratification. There is, therefore, no question of imposing any additional obligations upon States parties to the Covenant.

9. Secondly, the general principle of permitting complaints to be submitted under an international procedure in relation to economic, social and cultural rights is in no way new or especially innovative. Indeed, there are already a number of long-established procedures at the international level which specifically provide for the consideration of such complaints. They include: the ILO procedure for responding to alleged violations of trade union rights (art. 8 of the Covenant); the UNESCO procedure for dealing with alleged violations of rights relating to education, science and culture (arts. 13-15 of the Covenant); and the procedure established under Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970 which, as specifically affirmed by the Commission on Human Rights, applies also to the full range of economic, social and cultural rights.

10. In addition, it may be noted that the Council of Europe is currently engaged in the drafting of an additional protocol to the European Social Charter. The Council's Parliamentary Assembly recommended, in September 1991, that various reforms of the Charter be undertaken immediately, including the adoption of an effective complaints procedure. e/ Subsequently, a high-level ministerial meeting held in Turin, Italy, in October 1991 to mark the

thirtieth anniversary of that Charter recommended that the Committee of Ministers "examine at their earliest opportunity a draft protocol providing for a system of collective complaints, with a view to its adoption and opening for signature".

11. It should also be noted that provision already exists in the Inter-American system for complaints to be lodged in relation to the right to organize trade unions and the right to education. Thus, article 19 (6) of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (the Protocol of San Salvador, of 1988) provides that:

> "Any instance in which [the right to organize trade unions and the right to education] are violated by action directly attributable to a State Party to this Protocol may give rise, through participation of the Inter-American Commission on Human Rights and, when applicable, of the Inter-American Court of Human Rights, to application of the system of individual petitions governed by Article 44 through 51 and 61 through 69 of the American Convention on Human Rights."

12. Thirdly, experience to date with a wide range of existing international petition procedures indicates that there is no basis for fears that an optional protocol to the International Covenant on Economic, Social and Cultural Rights could lead to the Committee being inundated by complaints. Thus, for example, after 10 years in operation the complaints procedure under the International Convention on the Elimination of All Forms of Racial Discrimination has generated no more than a handful of complaints. Similarly the procedure under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has developed only very gradually. The UNESCO procedure has also dealt with relatively few complaints since its establishment in 1978. By the same token, it must be borne in mind that even a very small number of complaints can provide the Committee with some singularly important opportunities to develop the jurisprudential understanding of the rights recognized in the Covenant.

13. Fourthly, it is to be recalled that complaints procedures such as that which is being proposed do not endow the relevant international body with the authority to demand that specific measures be taken by any State party. Ultimately, the influence and effectiveness of the procedure depends very largely upon the expertise of the Committee, the strength of its analysis of the issues and the persuasiveness of its conclusions.

14. Finally, it is appropriate to recall that the principle so often reaffirmed by the United Nations General Assembly and Commission on Human Rights concerning the indivisibility, interdependence and interrelatedness of the two sets of rights is undermined by the existence of various treaty-based petition procedures in relation to civil and political rights, but no such arrangements in relation to economic, social and cultural rights. If the latter set of rights is to be taken seriously and to be treated on an equal footing with civil and political rights it is essential that consideration be given to the provision of a complaints procedure for economic, social and cultural rights.

15. Some of these matters are elaborated upon in more detail below.

C. Background to the consideration of a complaints procedure

16. The Optional Protocol to the International Covenant on Civil and Political Rights of 1966 was proposed and adopted only at the very end of a protracted drafting process and came almost as an afterthought, once the precedent had been set in the 1965 International Convention on the Elimination of All Forms of Racial Discrimination. Some of the proposals made during the drafting of the International Covenant on Economic, Social and Cultural Rights seemed to leave open the possibility of a comparable procedure being applied to that Covenant but, in the event, no State was really prepared to grasp the nettle and fight for such an approach to economic and social rights.

17. The International Conference on Human Rights, held at Teheran in 1968, provided a major impetus to renewed consideration of the means by which economic rights could most effectively be implemented. In particular, the Conference called upon "all Governments to focus their attention ... on developing and perfecting legal procedures for prevention of violations and defence of" economic, social and cultural rights. f/ One of the most immediate results of the Conference was the preparation by the Secretary-General of a detailed "preliminary study of issues relating to the realization of economic and social rights." g/ While at the international level the study did not go beyond existing approaches to implementation, it made a number of important observations on the nature of economic rights in the context of measures that might be taken at the national level. In addition to considering the feasibility of constitutional and legislative measures, the study argued that article 8 of the Universal Declaration (recognizing "the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law") applied "of course, also to economic, social and cultural rights". h/ The study went on to note that many of those rights are capable of being protected at the national level "by the ordinary courts" and that, in many respects, that is already the situation in various States. i/

18. The Secretary-General's study thus placed considerable emphasis on the role of judicial and other remedies in vindicating claims for respect of economic rights. The Report prepared by Manouchehr Ganji, j/ which was commissioned after consideration by the Commission on Human Rights of the Secretary-General's study, adopted a very different approach. Its almost exclusive focus was on the problems faced by developing countries in overcoming poverty. The study did not deal with "national norms and standards governing the realization of economic, social and cultural rights" because such an endeavour would have "vastly exceeded the scope and space allotted to the study". k/ Nevertheless, the report concluded by suggesting that such a study "should be undertaken in the future". l/ But it never was.

19. The 1990s would appear to provide a different and potentially more hospitable environment for policy approaches designed to provide remedies to individuals and groups in cases of violations of their economic rights. This is reflected, in part, in the more sustained focus by the Commission on Human Rights in recent years on the means by which economic rights can effectively

be implemented, at both national and international levels. It is also consistent with the approach to implementation which has gradually been developed by the Committee on Economic, Social and Cultural Rights since its first session in 1987 and with trends within the European and Inter-American systems.

D. Principal argument in favour of an optional protocol

20. There are many arguments that can be made in support of the proposition that a complaints procedure ought to be incorporated into an optional protocol to supplement the International Covenant on Economic, Social and Cultural Rights. Ultimately, of course, the most compelling is that the aggregate enjoyment of economic rights by individuals and groups throughout the world will be significantly enhanced thereby. Other arguments would relate to the strengthening of the principle of international accountability by States parties to the Covenant and the development of a greater degree of comparability in the approaches used under the two Covenants. But, at least in the short term, the principal argument in favour of a complaints procedure relates to what might be termed its instrumental uses.

21. It is generally agreed that the major shortcoming of the existing international arrangements for the promotion of respect for economic rights is the vagueness of many of the rights as formulated in the Covenant and the resulting lack of clarity as to their normative implications. m/ Articles 6 to 9 of the Covenant are a notable exception in this regard. The explanation for that fact is twofold. In the first place many of the rights covered by those provisions are better known to domestic legal systems (i.e. they have been recognized longer and with greater precision) than some of those dealt with in the remaining articles of part III of the Covenant. Secondly, and in part related, is the fact that the International Labour Organisation has been working since 1919 to develop and clarify the precise normative content of those rights. It has used a variety of methods for that purpose but many of them have a strong "petition" or complaints element about them. Thus, if we take the right to freedom of association (i.e. the right to form and join trade unions as recognized by article 8 of the Covenant, the ILO has developed an enormous jurisprudence through the mechanism of complaints being received and examined by the Committee on Freedom of Association. n/ As a result, if a difficult issue of interpretation with respect to article 8 of the Covenant arises, it is possible through the application of principles developed by the ILO (to the extent that they are deemed applicable in light of the terms of the Covenant and other relevant considerations) to say, with a significant degree of confidence, what is required of a State party in a given situation.

22. This may be contrasted with the situation relating to rights such as the right to health or the right to education. With respect to the latter, for example, the problems are perhaps best illustrated by reference to a question of interpretation of the Covenant that arose recently in a State party to the Covenant. Early in 1990 the Government introduced, for the first time for many years, tuition fees for full-time university students. That decision was challenged by the national University Students Association who sought the views of the national Human Rights Commission. The latter responded with an

opinion that concluded that the imposition of fees would violate article 13 (2) (c) of the Covenant (which provides that "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"). In addition to other reasons cited to justify this conclusion, the Commission expressly rejected the argument that an adverse economic situation in the country as a whole could be used to justify a reduction in the level of educational services provided by the Government. In the event, the Government rejected the Commission's interpretation of the Covenant and insisted that its approach was indeed consistent with the relevant provision. In doing so, it observed that "... essentially, it is not for the Human Rights Commission to be making an assessment of the resources available to the Government to extend the availability of tertiary education". This case raises several questions of considerable importance in terms of the interpretation of the Covenant. They include: the nature of the undertaking in article 13 (2) (c); the meaning of the concept of "progressive realization"; the basis for determining what resources are "available" for the purposes of the Covenant; and the extent to which existing levels of enjoyment of economic rights can be intentionally reduced on the grounds of economic necessity.

23. Despite the critical importance of these provisions, neither the relevant Government nor the Human Rights Commission, nor any other interested party, could turn to any specific jurisprudence generated by the Committee on Economic, Social and Cultural Rights for guidance in interpreting the Government's obligations under the Covenant. Similarly, if and when the issue eventually comes before the Committee it will (for reasons noted below) find itself unable to examine the issues with any degree of sophistication or precision.

24. As long as the majority of the provisions of the Covenant (and most notably those relating to education, health care, food and nutrition, and housing) are not the subject of any detailed jurisprudential scrutiny at the international level, it is most unlikely that they will be subject to such examination at the national level either. The principal reason for this is that provisions which are stated in very general terms (such as art. 11 of the Covenant) are highly unlikely to be deemed by national authorities to lend themselves to judicial or administrative application in the absence of legislative enactments spelling out more clearly their implications in terms of the domestic legal order. With respect to most of the Covenant's provisions (excluding arts. 6 to 9, for reasons noted earlier), there are strong grounds for predicting that national courts will find them to be "non-self-executing", not "directly applicable" or not capable of having "direct effect". Which of these terms will be used depends on the approach to international treaty obligations manifested in the relevant municipal legal order. In any event, the result will be that the obligations flowing from the Covenant will continue to be stated only in the most general terms and will rarely be subject to the type of detailed judicial analysis that can help immeasurably in facilitating a clearer, more precise and more nuanced understanding of the implications of international human rights norms.

25. Thus, it is hardly surprising to note that the vast majority of cases in which the Covenant has been invoked in domestic court proceedings concern labour-related issues dealt with in articles 6 to 8 of the Covenant. In the Netherlands, for example, there have been several such cases. o/ On the other hand, even in a country such as Finland, which is very economic rights-conscious and in which international human rights instruments are taken very seriously, there have been no cases in which the Covenant has been directly applied by the courts. p/

E. Limitations of existing methods for developing the Covenant's jurisprudence

26. The Covenant itself foresees only one method by which the jurisprudence of the rights contained in the Covenant might be elaborated upon. That is through the examination of States parties' reports by the Economic and Social Council. The latter task is now, for all intents and purposes, carried out by the Committee on Economic, Social and Cultural Rights. The Committee has also developed two other techniques by which it might better contribute to an understanding of the normative content of the various rights. They are the elaboration of general comments and the holding of a day of general discussion at each of its sessions.

27. Nevertheless, it is clear that none of these methods provides the necessary opportunity for the Committee to take a specific issue, to examine it at length in a particular situation and to develop any considered views on the extent to which a given act or omission is in compliance with the provisions of the Covenant. The examination of State parties' reports has, on a significant number of occasions, thrown up issues with respect to which opinion in the Committee has been divided. In some instances individual members have expressed their view that a violation is involved and in others the Committee as a whole has effectively endorsed such a conclusion. The reality is, however, that any such conclusion is soft in the extreme and can represent no more than a tentative and usually highly speculative view. The reasons for that unavoidable softness are not difficult to find. In the first place, the information available is usually only of a very general kind. Thus, for example, the Committee has never really examined a State's constitution per se or even a piece of legislation in its entirety. Indeed, these texts have never really been presented to it. (In some cases, such documents are appended to the State party's report but they are never translated or reproduced for the benefit of Committee members.) Secondly, the examination of a given issue is rarely able to be situated in the context of the prevailing reality in the State concerned. Even where a non-governmental organization makes a written submission to the Committee (a rare enough occurrence) it will generally not convey the sort of detailed and precise information that would enable the Committee to delve into an issue in any depth. Thirdly, the Committee's mandate to examine reports on a periodic basis does not really entitle it to insist, vis-à-vis the State party, that it be permitted to pursue specific cases.

28. The adoption of general comments provides an opportunity for the Committee to make a significant contribution to the jurisprudence surrounding a particular right or issue. But the inherent limitations involved in the raw

material available to it under the reporting procedure, combined with a tradition (set mainly by the Human Rights Committee) of making only rather general observations in the context of general comments, ensures that major jurisprudential contributions will not usually emanate from that source. Similarly, the Committee's day of general discussion, for all its worth in other respects, is not conducive to a detailed examination of normative issues.

F. Function of complaints procedures

(a) Under other treaties

29. Much of what has been said above tends to assume that treaty-based complaints procedures which are already in existence have succeeded in making a significant contribution to developing the normative content of the relevant rights. It must be noted from the outset, however, that this assessment is based only on the experience relating to the Optional Protocol to the International Covenant on Civil and Political Rights. The Committee on the Elimination of Racial Discrimination has succeeded in attracting relatively few complaints under the optional procedure established by article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination. Indeed, since it came into force in 1984 the Committee has adopted an opinion on only two communications. Similarly, the optional complaints procedure under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is of too recent origin to permit meaningful conclusions to be drawn as to its jurisprudential productivity.

30. It is unnecessary in the present context to review the results of the Optional Protocol procedure under the Covenant in any detail. Suffice it to say that the vast majority of commentators who have assessed the work of the Human Rights Committee have acknowledged the enormous importance of the procedure in terms of its contribution to an enhanced understanding of the normative implications of many of the provisions contained in the Covenant. Thus, Graefrath has observed that its "limited function" includes "elaborating on the legal contents of an international human rights standard, its specific characteristics and its possibilities for adjustment". g/ He also acknowledges that, although the procedure is ill equipped to provide much consolation to an individual complainant, it might have a very beneficial impact on the situation involving other individuals who face similar problems.

31. But perhaps the most telling evidence of the jurisprudential value of the complaints procedure is the fact that the collected "views" of the Committee based on individual cases are of much greater value in shedding light on the meaning of the various rights formulations that either the Committee's general comments or the insights generated by its examination of State parties' reports. Indeed, the Human Rights Committee has already succeeded in shedding considerable light on issues dealt with in the International Covenant on Economic, Social and Cultural Rights simply because those issues have been found to be intimately related to matters arising under petitions submitted in relation to the International Covenant on Civil and Political Rights. This impact has been carefully described and analysed in a detailed study of the manner in which the norms found in the former Covenant have "permeated" the latter Covenant. r/

(b) Under the International Covenant on Economic, Social and Cultural Rights

32. We come now to the central point in this analysis. In what ways could the adoption of a complaints procedure (presumably in the form of an optional protocol) contribute to the understanding of economic and social rights in general and to the standing and practical relevance of the Covenant in particular?

33. First, a complaints procedure brings concrete and tangible issues into relief. The real problems confronting individuals and groups come alive in a way that can never be the case in the context of the abstract discussions that arise in the setting of the reporting procedure.

34. Second, the focus on a particular case provides a framework for inquiry which is otherwise absent. It should ideally involve the submission of precise and detailed information by a petitioner which, in turn, should ensure the provision of equally clearly focused information by the Government concerned. Even where the dialogue is in writing the capacity to get to the nub of issues is vastly greater than it is under the reporting procedure. The Committee is thus able to, and in many respects is forced to, come to grips with the more complex issues that underlie many of the Covenant's provisions.

35. Third, the mere possibility that complaints might be brought in an international forum should encourage Governments to ensure that more effective local remedies are available in respect of economic and social rights issues (thus making it less likely that the international forum will be able to accept jurisdiction).

36. Fourth, the existence of a potential "remedy" at the international level provides an incentive to individuals and groups to formulate some of their economic and social claims in more precise terms and in relation to the specific provisions of the Covenant. Such a development could contribute very significantly towards bridging the gap between human rights concerns narrowly construed and broader social justice issues.

37. Fifth, the possibility of an adverse "finding" by an international committee would give economic and social rights a salience in terms of the political concerns of Governments that those rights very largely lack at present. As Graefrath has noted in relation to the Optional Protocol to the International Covenant on Civil and Political Rights: "Despite the fact that the Committee's views or opinions are not binding, they are powerful legal opinions which cannot easily be neglected by a state ...". s/

38. Finally, a complaints procedure produces a tangible result which, in terms of "human interest" potential, is far more likely to generate interest in, and an understanding of, the Covenant in general and of the specific issues concerned.

39. Having extolled the potential virtues of a complaints procedure it is also appropriate to note that this "normative-judicial" model is not without its shortcomings. In particular there are various reasons why individuals

whose rights are severely threatened might still not avail themselves of an international petition system. They include: (a) ignorance of the existence of an applicable international procedure; (b) a lack of time and/or resources; (c) the physical impossibility of lodging a complaint; (d) the difficulty of demonstrating sufficient individual, as opposed to general community, standing to justify lodging a complaint; and (e) the assumption that the international body in question is, for political or other reasons, unlikely to take a stand in favour of the victim(s) in a given situation.

40. Nevertheless, as compelling as these arguments might be in terms of the case for not relying exclusively on complaints procedures, they lose most, if not all, of their force in the context of implementation measures which provide for both petition and reporting mechanisms. Since the latter is now firmly established in the case of the International Covenant on Economic, Social and Cultural Rights there are strong reasons for seeking to complement it by a complaints procedure.

G. Relevance of the equality of rights argument

41. The doctrine of the interdependence and indivisibility of all human rights is central to the normative underpinnings of international human rights law as it now exists. There are thus very strong reasons why this doctrine ought to be reflected in a roughly proportionate way in terms of the procedures that are utilized for their promotion and protection. That is not to argue either that the two sets of rights are identical in every way or that a procedure for monitoring respect for civil and political rights must always have its direct counterpart in relation to economic and social rights (or vice versa). Nevertheless, where there are major disparities in terms of the respective mechanisms or procedures, they need to be justified by reference to objective factors such as the intrinsic nature of the rights involved.

42. The most obvious disparity in this regard relates to the availability of petition procedures. In the civil and political rights area these procedures have been generally accepted. Thus, appropriate institutional mechanisms are provided for in relation to the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. But there is no such mechanism attached to the International Covenant on Economic, Social and Cultural Rights. How, if at all, is this to be explained or justified? What arguments have been, or might be, used to defend the status quo?

H. Review of some of the counter-arguments

(a) Economic rights should be approached in an exclusively non-adversarial manner

43. It has frequently been observed that confrontation might not be the most productive way of persuading Governments to change their economic policies or to adopt whatever other measures might be needed to secure the realization of economic and social rights. Without wishing to challenge that proposition it

needs to be read as being subject to two major qualifications. The first is that a petition procedure should not be seen as an inherently confrontational one. Such procedures are becoming increasingly common and unexceptional and should be seen as providing a framework within which a particular policy or approach can be taken before an independent, expert panel for review in the light of freely accepted and clearly applicable standards. Moreover, as Harris has noted, "a petition system usually has a conciliation stage, and the existence of a case against a State may help to concentrate its mind." t/ The second is that while an adversarial approach (if that is how a Government wishes to portray a complaints procedure) should be a last resort in this area, it should never be entirely excluded. Thus, the "Limburg Principles on the Implementation of the Covenant on Economic, Social and Cultural Rights" devote considerable attention to the need to address violations of these rights. u/ In the final analysis, it is difficult to understand how torture can be deemed a matter worthy of confrontation but deliberate starvation or the discriminatory denial of all basic health care should be matters to be addressed in a determinedly friendly and polite fashion.

(b) Economic rights are not justiciable

44. This is an issue to which adequate attention has been given elsewhere. It is sufficient to point to existing practice in many States to demonstrate that a wide range of economic rights are regularly the subject of judicial adjudication. In addition to many Western European countries, reference might also be made to some celebrated excursions in this domain by the Indian Supreme Court.

45. At the international level, there is also abundant evidence to refute the proposition. Apart from the obvious examples of all the economic rights which have long been the subject of ILO petition procedures, mention can also be made of the increasingly common forays of the Human Rights Committee into economic rights territory. Similarly, it has been convincingly shown that the work of the Committee of Independent Experts under the European Social Charter has frequently dealt with economic rights issues in a manner which confirms that the rights would be justiciable. v/

46. But perhaps the most compelling response to the argument that economic rights are not justiciable is that this procedure would only apply to those that are deemed to be justiciable, at least in part. Moreover, one of the basic objectives of the procedure is to enhance understanding of the normative content of the rights and thus to shed more light on aspects of the notion of justiciability.

(c) Group rights are an inappropriate focus for individual petition procedures

47. This argument is flawed on at least two counts. First, petition procedures are not exclusively concerned with the procedures and complaints of individuals. Many of them explicitly provide for petitions on behalf of groups to be dealt with. Secondly, despite an old canard to this effect, economic and social rights are not, per se, group rights. It may well be that

their enjoyment is usually best promoted by generally applicable policies or programmes, but so too are most civil and political rights. This preferred approach to promotion does not fundamentally alter the nature of the rights themselves. It is, after all, the individual who starves to death, dies because of a lack of health care or suffers from the consequences of illiteracy.

48. It has also been pointed out that arguments such as this overlook or oversimplify the means by which progress is generally achieved in the human rights field. As Jacobs has pointed out in the European context, "the contrast between the Convention [complaints-based] system and the Charter [reporting-based] system may be misplaced ... since although the Convention provides a direct remedy for the individual its true effectiveness has been to remedy defects in national laws and practices rather than to provide the individual with a cure for his particular complaint." w/

I. Consideration of specific issues

49. In the discussion on this issue by the Committee on Economic, Social and Cultural Rights at its sixth session four major issues were identified, in relation to which greater specificity was sought. The analysis that follows seeks to examine the options that might be considered with respect to each of these matters. In brief, the four issues are: (a) Who could exercise the right of complaint?; (b) What rights would be covered by the procedure?; (c) What procedural rules would be applied?; and (d) What possible outcomes could be envisaged from the procedure?

J. Who could exercise the right of complaint?

50. The answer to this question depends in turn on the answers given to three others. The first is whether only inter-State complaints should be accepted. The second is whether, either in addition or alternatively, complaints should be accepted from individuals or only on a collective basis. And third, if the latter approach is taken, then the question is to determine the basis upon which specific groups would be authorized to submit complaints.

(a) An inter-State system

51. Several of the principal international human rights treaties contain provision for a procedure under which one or more States parties to the treaty may lodge a complaint against another State party alleging non-compliance with the relevant obligations. Long experience has demonstrated, however, that these procedures are invoked extremely rarely and then only in relation to situations of very major significance. States are very clearly reluctant to make use of such procedures. As a result, the procedure contained in article 41 of the International Covenant on Civil and Political Rights has never once been invoked since the Covenant's entry into force in 1976.

52. Thus, while an inter-State procedure might be considered as an additional measure, it could not be considered to be a satisfactory substitute for an individual or collective complaints procedure. This is confirmed by recent

developments in relation to a proposed procedure under the European Social Charter, in connection with which a proposal to confine the scope of the procedure to inter-State complaints was firmly rejected.

53. That is not to say, however, that both an individual and an inter-State mechanism should not be considered. While the latter clearly has some potential to be misused in the context of political disputes between States, it could become a very attractive means by which to facilitate the resolution of inter-State disputes. This will be particularly the case if States show an increased willingness to resort to such mechanisms in the future and if nationality and minority-related disputes continue to hinder friendly relations between neighbouring States.

(b) An individual or collective procedure?

54. It is sometimes suggested that the rights recognized in the International Covenant on Economic, Social and Cultural Rights are of an essentially collective nature. In principle, this characterization is clearly incorrect since the Covenant specifically refers to the rights of "everyone". Nevertheless, there is a collective element to the extent that measures to improve the enjoyment of an individual's economic, social or cultural rights would normally extend beyond that individual and encompass a variety of other persons whose situation is in some way comparable or related. This is not, however, significantly different from the situation that applies in relation to measures to improve the enjoyment of many civil and political rights.

55. There is thus no intrinsic reason why a complaints system in the field of economic, social and cultural rights should not be based on the right of individuals to lodge communications. Perhaps the strongest argument in favour of such an approach is that by focusing upon the plight of a particular individual, the Committee would most readily be enabled to ascertain all of the facts and to see an issue directly in terms of its impact on the enjoyment of a specific right. The objection that such an individualistic focus would do little to improve the situation of "the masses" is partly negated by the fact that virtually all international complaints procedures focus upon the situation of a specific individual, on the assumption that resulting "test" cases will very often have implications extending well beyond that narrow focus.

56. There are, however, at least two objections that might be made to a proposal that complaints be accepted from individuals. The first is that the Committee might be swamped by a flood of complaints from individuals whose situations were, in effect, unique, thus requiring it to deal with an unmanageably large number of isolated complaints. The fear might be that the resulting workload would paralyse the Committee and eventually render it unable to deal effectively with any of the very many complaints received, thus bringing the entire procedure into disrepute. This possibility could not be definitively ruled out, but it must be emphasized that such problems have never been confronted by any of the existing procedures that accept individual complaints. Thus, for example, over a period of 10 years the complaints procedure established under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination has considered only two

complaints. Moreover, the procedural requirements that must be satisfied before a complaint can be deemed admissible are usually considered to be the best means by which to ensure that such an unmanageable flood of complaints is avoided.

57. The second possible objection is that it might sometimes be difficult to justify a request to a State party to consider adopting measures of a general, structural nature solely on the basis of the examination of a complaint by one individual.

58. If a cautious approach is taken, it may be appropriate to acknowledge that there might be some grounds for concern in response to these and similar objections. That does not necessarily mean, however, that the only viable approach is to restrict complaints to those of a collective nature. In other words, it need not follow that the complaints procedure should be confined to petitions lodged by a collective organization of some sort, such as a labour union or a non-governmental organization. Rather, there is a clearly established and accepted middle ground which consists of accepting complaints from both individuals and groups, provided that they relate to situations which have implications extending beyond the narrow concerns of the individual applicant.

59. There are several criteria which might be adopted in order to reflect such a requirement. One would be to require complainants to show that the issue raised affects a significant number of people. While the term "significant" is inevitably open-ended it would, in effect, be for the complainant to demonstrate that the criterion is satisfied and for the Committee to exercise its discretion in determining whether or not the relevant threshold has been achieved. Another criterion would be to require that the action (or omission) in question be "systematic". While this is also a somewhat open-ended term, it would exclude cases which clearly involved only isolated incidents affecting one individual and practised only by one respondent. The term "systematic" has long been used, and applied without any particular difficulty, by both the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Commission on Human Rights in connection with their respective roles under the procedure foreseen in Economic and Social Council resolution 1503 (XLVIII). The term "pattern", which is also part of the definition contained in the procedure, represents another means by which the requirement of detriment going beyond the situation of a single individual could be reflected.

60. Another alternative, designed to avoid reliance upon such general criteria as "systematic", "patterned", or "significant", would be to formulate a rather more demanding set of criteria which would, for example, necessitate a showing of persistent discrimination or the presence of intrinsic, structural, systemic defects which have resulted in widespread disentitlement. But while such complex formulations might have some appeal to those who are especially concerned to limit the scope of the procedure, it must be borne in mind that complexity of this nature is not only more difficult for complainants to understand but also for a committee to apply.

61. If a decision were taken to limit the right to petition to collective complaints it would be necessary to determine which collectivities, or groups, would be entitled to lodge complaints and on the basis of what criteria. Several options would be available in this regard. The first, and perhaps the narrowest, would be to restrict the use of the procedure to non-governmental organizations which enjoy consultative status with the Economic and Social Council. This would be an appropriate criterion if it were one of several, but not in isolation. If it were the sole criterion, it would have the effect of excluding the great majority of groups operating at the national level which have the closest knowledge of the domestic situation and are thus best placed to formulate a complaint. While such groups would retain the possibility of working through one of the international non-governmental organizations with consultative status, there would be a very large number which, for a variety of reasons, would not be able to do so in practice.

62. Thus, if complaints were to be restricted to collective groups only, it would be highly desirable to ensure that certain national groups, in addition to non-governmental organizations in consultative status, be enabled to lodge complaints. The determination of which groups would be so authorized could be entrusted to both the relevant State party and the Committee.

63. In the case of the State party, several options might be envisaged. In the first place, the right to lodge communications could automatically be given to the principal social partners (interpreted in the sense used by the ILO), which would include the major national groups of workers and employers and other key national groups. Secondly, the State party could undertake to authorize various other groups for this propose. Thirdly, the State party could, on an ad hoc basis, agree to the submission of a complaint by a particular group which is not otherwise among the indicated categories of authorized groups. Finally, the optional protocol itself could specifically allow for each State party, in ratifying the instrument, to make a declaration recognizing the right of any representative national non-governmental organization to lodge a complaint.

64. In the case of the Committee, the optional protocol could vest in the Committee the discretion whether to accept a complaint if the complainant is able to demonstrate that no other effective avenue for lodging a complaint is open or available.

65. The above analysis indicates that there is a significant range of possibilities for determining which groups might be authorized to submit complaints. It also demonstrates, however, that this approach is potentially rather complicated and cumbersome and that significant opportunities would exist for the State party to prevent or inhibit the effective submission of a complaint under the procedure. In order to avoid these complexities and the possibility of manipulation or abuse, if would seem far preferable for the procedure to be open to any individuals or groups. A decision to reject that approach would need to be premised on the assumption that such an open approach would be more readily abused than a restrictive approach. Experience to date, however, does not bear this out. Virtually all of the existing

procedures are entirely open in this regard and there have been few, if any, instances of serious abuse on the part of petitioners. Moreover, the most effective way of combating any abuse of this nature is for the Committee itself to remain vigilant.

66. In their discussions on this issue at the seventh session of the Committee on Economic, Social and Cultural Rights members of the Committee indicated a strong and clear preference for an individual complaints procedure as being the most equitable, workable and constructive solution to the problems discussed above.

67. One of the issues specifically examined by the Committee in relation to the sort of criteria considered above concerns the resulting complexity of the requirements for admissibility of a complaint. Such concerns would be especially justified if it were not open to the Committee to decide to combine the admissibility and merits phases of the complaint in appropriate cases. The separation of the phases is appropriate in relation to cases in which the Committee feels able to make a reasonably clear-cut negative finding in relation to admissibility (e.g. for lack of relevance to the Covenant, for patent inadequacy of the information provided or for abuse of privilege). In many other cases, however, the relationship between the issues to be considered as to admissibility and the merits would be so close as to warrant a consideration of both at the same time. This would also enable the Committee to act in a much more expeditious manner than might otherwise be the case.

K. What rights would be covered by the procedure?

68. In terms of the range of rights contained in the Covenant to which the optional protocol procedure would be applicable, there would appear to be at least four options. They are:

(a) The procedure would only apply to certain selected rights, on the assumption that the scope of coverage would be gradually expanded over time;

(b) Each State party would be able to indicate at the time of ratification of the protocol the rights to which the procedure would apply in respect of itself;

(c) The procedure would apply to all of the specific rights recognized in articles 6-15; and

(d) The procedure would apply to the entire Covenant.

69. Each of these options will now be considered briefly, in order.

(a) Application of the procedure only to certain selected rights

70. It is often assumed that some of the rights contained in the Covenant are already, or are at least potentially, justiciable, while others are not. The conclusion to be drawn from this assumption is that only those rights which

are clearly justiciable ought to be subject to the complaints procedure. It is submitted, however, that this assumption constitutes a significant oversimplification of the issue and results in the presentation of a rather misleading picture. The reality would seem to be rather different. On the one hand, it would seem possible to identify justiciable dimensions of virtually all of the rights recognized in the Covenant. On the other hand, some of the rights which are most commonly assumed to be justiciable, such as the right to reasonable working conditions or the right to social security, may have aspects which are not readily susceptible to determinations by the courts.

71. For these reasons, it would seem inappropriate to select certain rights as being subject to the optional protocol, while rejecting others as being unsuitable. Rather, what is required is to address directly the concern which underlies the suggestion that only certain rights be covered. That concern is to ensure that the Committee does not have to deal with issues which are clearly incapable of being resolved within a complaints-type procedure. Such issues would include, for example, in particular, matters which are appropriately determined only by the domestic political process. But that function is best performed not by a restrictive listing of the rights to be covered by the protocol but rather by the adoption of appropriate procedural safeguards. This matter is considered below.

72. It may also be questioned whether it is reasonable to assume that an initially restrictive listing of the rights covered by the procedure would, realistically, be likely to be expanded gradually over time. Any such expansion would require an amendment to the protocol and a new act of ratification or succession on the part of relevant States parties. That procedure is sufficiently cumbersome and time consuming as to make it unlikely that any such amendments would be undertaken, in which case the initial, restrictive, range of rights would never be expanded. The result would be that certain rights would be assumed to be of greater importance than others and would be the subject of sustained attention under the procedure while others would remain untouched.

(b) States parties would indicate at the time of ratification the rights in respect to which it would accept the application of the procedure

73. This approach would, to some extent, be consistent with the approach reflected in the European Social Charter which enables States parties to determine which of the rights they will accept to be bound by, providing, however, that a minimum number of rights is accepted. One problem with this approach is that it might enable some States to obtain the prestige associated with the ratification of the protocol while at the same time incurring only very minimal obligations. Nevertheless, the acceptance of some such obligations would be better than none and the possibility of a particular State being able to exclude the application of the procedure in respect of certain rights might make ratification more acceptable and likely.

74. Another problem that should be noted in relation to this approach is that certain key rights might be consistently excluded by ratifying States. Thus, for example, it would be possible for a State to ratify the protocol while

excluding articles 10 and 12 from its coverage. This would mean that the right to health care, children's rights, the right to an adequate standard of living, the right to food and the right to housing would all be excluded, thus removing from the purview of the procedure many of the key rights recognized in the Covenant.

(c) Application of the procedure to all of the specific rights recognized in articles 6 to 15

75. This approach would ensure that no invidious distinctions were drawn between the different rights and would enable the Committee to take an integrated and comprehensive approach to the specific rights. It would be necessary, however, to ensure that the prohibition of discrimination contained in article 2 of the Covenant was not thereby excluded from the scope of the procedure. This could be achieved through a specific provision.

76. One consequence of this approach would be the exclusion of the right to self-determination and of the other provisions of article 1 of the Covenant from the purview of the procedure.

(d) Application of the procedure to articles 1 to 15 of the Covenant

77. As noted earlier, there is much to be said for adopting a comprehensive approach to any optional procedure. In particular, the fact that virtually all of the rights recognized in the Covenant are already covered by one or more international complaints procedures would argue strongly against adopting a more restrictive approach in the context of the single most important and comprehensive international treaty dealing with economic, social and cultural rights.

78. A comprehensive approach would also mirror the approach taken in relation to the Optional Protocol to the International Covenant on Civil and Political Rights. During discussions by the Committee at its seventh session there was strong support for such an approach.

79. The adoption of a comprehensive approach under the optional protocol would in no way preclude the operation of various procedural safeguards which would help to ensure that the procedure did not lead to the consideration of matters which do not belong in such a setting. The question of what those safeguards might be is now therefore addressed.

L. What procedural rules would be applied?

80. The most important procedural issue, and the only one specifically raised during the Committee's discussion at its sixth session, concerns the need for a provision relating to the exhaustion of domestic remedies. This requirement is a feature of virtually all international complaints procedures and would certainly need to be reflected in the procedure provided for in any optional protocol.

81. Similarly, the other major procedural safeguards that apply to other instruments, and in particular to the Optional Protocol to the International Covenant on Civil and Political Rights, would also be appropriate in relation to an optional protocol under the other Covenant. They include the following:

82. The temporary dimension (ratione temporis): complaints are only admissible in so far as they relate to acts or omissions which occur after the optional protocol has come into effect for the State party concerned.

83. The subject-matter of the complaint (ratione materiae): complaints will only be admissible if they relate specifically to the rights recognized in the International Covenant on Economic, Social and Cultural Rights.

84. The object of the complaint (ratione personae): the procedure would only apply in relation to alleged non-compliance by a State which is a party to both the International Covenant on Economic, Social and Cultural Rights and the optional protocol thereto. Thus, if a State validly ceases to be a party to the Covenant, the Committee would no longer be competent to consider complaints under the optional protocol in relation to that State.

85. The requirement that some detriment has been suffered: in the case of the Optional Protocol to the International Covenant on Civil and Political Rights an individual submitting a communication must claim to have been a "victim" of a violation by the State party concerned. While the same rule could be applied in relation to the optional protocol to the International Covenant on Economic, Social and Cultural Rights, it would seem more appropriate in the case of these rights (particularly taking account of the collective dimension of the remedies that would generally be sought) not to require that the individual concerned be a victim but rather that the individual or group be able to demonstrate that a clear "detriment" has been suffered. This approach would avoid "speculative" complaints that rely solely upon anticipated or predicted harm, without restricting the range of potential complainants unduly.

86. Nevertheless, if the requirement that the complainant be a victim is maintained, it would not seem likely in practice to restrict significantly either the type of issues that could be raised or the potential range of petitioners.

87. The jurisdictional requirement (rationae loci): complainants would only be admissible if they are submitted by petitioners subject to the jurisdiction of the State party concerned. It would thus not be possible for an individual resident in one State to lodge a complaint against another State with which he or she has no particular connection and to whose jurisdiction the person is not subject.

88. Non-duplication of procedures: it would also seem appropriate for the optional protocol to indicate, as does the existing Optional Protocol, that the Committee would be precluded from examining a communication if the same matter is being examined simultaneously under another procedure of international investigation or settlement.

89. Finally, the protocol would contain a general provision enabling the Committee to dismiss any matter which it considered to constitute an abuse of the right to petition.

90. It should be noted that, in determining how these safeguards would be applied in practice, careful regard would be had to the approach adopted by the Human Rights Committee in relation to the Optional Protocol to the International Covenant on Civil and Political Rights.

M. What possible outcomes could be envisaged from the procedure?

91. The Optional Protocol to the International Covenant on Civil and Political Rights indicates only that the Committee, at the completion of its consideration of a matter, "shall forward its views to the State party concerned and to the individual" (art. 5(4)). The same approach would be appropriate in relation to the new optional protocol.

92. In addition, however, the nature of many of the issues likely to be raised in connection with the International Covenant on Economic, Social and Cultural Rights would seem to make it appropriate to place a particular emphasis upon the desirability of seeking a friendly settlement of complaints. A provision of this type is contained in the European Convention on Human Rights and there has been a significant number of instances in which such settlements have been arrived at, usually in much less time than is taken by alternative approaches. It would, of course, be assumed that no such settlement would be agreed to by the Committee in cases where it was not convinced that respect for the rights recognized in the Covenant would be adequately ensured by the terms of the proposed settlement.

N. Conclusion

93. The overriding argument in favour of developing an optional protocol to the International Covenant on Economic, Social and Cultural Rights is that a system for the examination of individual cases offers the only real hope that the international community will be able to move towards the development of a significant body of jurisprudence in this field. As the experience of the Human Rights Committee demonstrates such a development is essential if economic, social and cultural rights are to be treated as seriously as they deserve to be. Until that happens, efforts by the Commission and the Sub-Commission on Prevention of Discrimination and Protection of Minorities and other bodies to attribute meaningful normative content to those rights shall be doomed to fail.

94. This is not to say that a petition system should be the only or even the main component in an overall implementation system. It should not. Writing in 1950, Lauterpacht argued for just such an approach. He acknowledged that the "enforcement" of economic and social rights should not be made "primarily judicial in character", although he did not rule out the appropriateness of such an approach in particular instances. He also observed that "[u]nless an effective right of petition ... is granted to individuals concerned or to bodies acting on their behalf, any international remedy that may be provided will be deficient in its vital aspect." x/

Notes

a/ E/1991/23, para. 285.

b/ E/C.12/1991/WP.2.

c/ E/1992/23, para. 362.

d/ E/C.12/1992/SR.11.

e/ Parliamentary Assembly of the Council of Europe, Recommendation 1168 (1991).

f/ Final Act of the International Conference on Human Rights, (United Nations publication, Sales No. E.68.XIV.2), resolution XXI, para. 6.

g/ E/CN.4/988.

h/ Ibid., para. 157.

i/ Ibid., para. 159.

j/ The Realization of Economic, Social and Cultural Rights: Problems, Policies, Progress (United Nations publication, Sales No. E.75.XIV.2).

k/ Ibid., Part Six, para. 151.

l/ Ibid.

m/ E.g. A. Eide, "Realization of social and economic rights", 10 Human Rights Law Journal (1989) p. 35.

n/ See, e.g., International Labour Organisation, Freedom of Association: Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body of the ILO, 3rd ed. (Geneva, 1985).

o/ E.g., Schermers, "Some recent cases delaying the direct effect of international treaties in Dutch law", 10 Michigan Journal of International Law (1989), p. 266.

p/ Karapuu and Rosas, "Economic, social and cultural rights in Finland", in Rosas (ed.), International Human Rights Norms in Domestic Law: Finnish and Polish Perspectives (Helsinki, Finnish Lawyers' Publishing Co., 1990) p. 195 at p. 204.

q/ B. Graefrath, "Reporting and complaint systems in universal human rights treaties", in Rosas and Helgesen (eds.), Human Rights in a Changing East-West Perspective (London, Pinter, 1990) p. 290 at p. 327.

r/ Scott, "The interdependence and permeability of human rights norms: towards a partial fusion of the International Covenants on Human Rights", 27 Osgoode Hall Law Journal (1989) p. 769.

s/ Graefrath, loc. cit., p. 319.

t/ Harris, The European Social Charter (Charlottesville, University of Virginia Press, 1984) p. 268.

u/ Limburg Principles, 9 Human Rights Quarterly (1987), p. 122 at p. 131, paras. 70-73.

v/ Harris, op. cit.

w/ F. Jacobs, "The extension of the European Convention on Human Rights to include economic, social and cultural rights", 3 Human Rights Review (1978), p. 166 at pp. 177-78.

x/ H. Lauterpacht, International Law and Human Rights (London, Stevens, 1950) p. 286.

Annex V

LIST OF STATES PARTIES' DELEGATIONS WHICH PARTICIPATED IN THE CONSIDERATION OF THEIR RESPECTIVE REPORTS BY THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS AT ITS SEVENTH SESSION

BELARUS	Representative:	Mr. A. M. Gornak Deputy Minister Ministry of Education
	Advisers:	Mr. A. A. Mardovich Permanent Representative of the Republic of Belarus to the United Nations Office at Geneva
		Mr. V. V. Galka Second Secretary Permanent Mission of the Republic of Belarus to the United Nations Office at Geneva
NORWAY	Representative:	Ms. Ragne Birte Lund Counsellor Permanent Mission of Norway to the United Nations Office at Geneva
	Advisers:	Ms. Brynhild Sirevag Senior Executive Officer Ministry of Education, Research and Church Affairs
		Mr. Wegger Strømmen First Secretary Permanent Mission of Norway to the United Nations Office at Geneva
POLAND	Representative:	Mr. Ludwik Dembinski Ambassador Permanent Representative of the Republic of Poland to the United Nations Office at Geneva

POLAND (cont'd)	Advisers:	Mr. Zdzislaw Kedzia Minister-Counsellor Permanent Mission of the Republic of Poland to the United Nations Office at Geneva
		Mr. Remigiusz A. Henczel Director of the Department of International Cooperation Ministry of Labour and Social Affairs
		Mrs. Teresa Drozdovska Director of the Legal Department Ministry of Culture and Arts
		Mr. Jerzy Wisniecki Vice-Director of the Department of International Cooperation Ministry of Education
HUNGARY	Representatives:	Mr. Endre Lontai Minister Plenipotentiary Permanent Mission of the Republic of Hungary to the United Nations Office at Geneva
		Mr. Sándor Szapora Second Secretary Permanent Mission of the Republic of Hungary to the United Nations Office at Geneva
ITALY	Representative:	H.E. Mr. Francesco Mezzalama Ambassador Ministry for Foreign Affairs
	Advisers:	Mr. Daniele Verga First Counsellor Permanent Mission of Italy to the United Nations Office at Geneva
		Prof. Luigi Citarella Secretary-General Interministerial Committee for Human Rights
		Mr. Luciano Amatucci Expert National Ministry for Education
		Mrs. Anna Passannanti Expert Ministry of Justice

ITALY (cont'd)		Mrs. Vanna Palumbo Expert Ministry of the Interior
		Mrs. Daniela Carla Expert Ministry of Labour
JAMAICA	Representative:	Mrs. Vivia E. Betton Minister-Counsellor Permanent Mission of Jamaica to the United Nations Office at Geneva
	Adviser:	Mrs. Beryl Nembhard Director Planning Institute of Jamaica
FRANCE	Representative:	Mr. Gilles Chouraqui Chargé de mission in the Office of the Director of Legal Affairs Ministry for Foreign Affairs
	Advisers:	Mr. Claude Fonroget Deputy to the Director for Social Welfare Ministry for Social Affairs and Integration
		Mr. Michel Boschat Chief, Department of Social and Cultural Affairs Ministry for Overseas Departments and Territories
		Mr. Patrick Titiun Magistrate seconded to the Office of Legal Affairs Ministry for Foreign Affairs
		Mrs. Béatrice le Fraper du Hellen First Secretary Permanent Mission of France to the United Nations Office at Geneva
NETHERLANDS	Representative:	H.E. Mr. J.F. Boddens-Hosang Ambassador Permanent Mission of the Netherlands to the United Nations Office at Geneva
	Adviser:	Ms. G. Wolters First Secretary Permanent Mission of the Netherlands to the United Nations Office at Geneva

JORDAN	Representative:	Dr. Khaldoun Talhouni Minister Plenipotentiary Permanent Mission of Jordan to the United Nations Office at Geneva
	Adviser:	Mr. Mohammad Al-Khasawneh Attaché Permanent Mission of Jordan to the United Nations Office at Geneva
PHILIPPINES	Representative:	Mr. Hector K. Villarroel Ambassador Deputy Permanent Representative Permanent Mission of the Philippines to the United Nations Office at Geneva
	Adviser:	Mrs. Bernarditas de Castro-Muller Second Secretary Permanent Mission of the Philippines to the United Nations Office at Geneva
PANAMA	Representative:	H.E. Dr. Osvaldo Velásquez Ambassador Permanent Representative Permanent Mission of Panama to the United Nations Office at Geneva
	Adviser:	Mrs. Lourdes C. Vallarino Counsellor Permanent Mission of Panama to the United Nations Office at Geneva

Annex VI

LIST OF DOCUMENTS OF THE COMMITTEE AT ITS SEVENTH SESSION

E/1986/3/Add.15	Initial reports submitted by States parties to the Covenant concerning rights covered by articles 10 to 12, in accordance with the second stage of the programme established by Economic and Social Council resolution 1988 (LX): Nicaragua
E/1990/7/Add.5	Second periodic reports submitted by States parties to the Covenant concerning rights covered by articles 13 to 15, in accordance with the third stage of the programme established by Economic and Social Council resolution 1988 (LX): Belarus
E/1990/7/Add.6	Idem: Czech and Slovak Federal Republic
E/1990/7/Add.7	Idem: Norway
E/1990/7/Add.8	Idem: Russian Federation
E/1990/7/Add.9	Idem: Poland
E/1990/7/Add.10	Idem: Hungary
E/1990/7/Add.11	Idem: Ukraine
E/1990/7/Add.12	Idem: Germany
E/1990/7/Add.13	Idem: Australia
E/1990/5/Add.5	Initial reports submitted by States parties to the Covenant concerning rights covered by articles 1 to 15, under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights and in accordance with the revised schedule for submission of reports approved by the Committee at its fourth session: New Zealand
E/1990/5/Add.6	Idem: Iceland
E/1990/5/Add.7	Idem: Uruguay
E/1990/5/Add.9	Idem: Iran (Islamic Republic of)
E/1990/5/Add.10	Idem: Viet Nam
E/1990/5/Add.11	Idem: New Zealand (Tokelau)
E/1990/5/Add.12	Idem: New Zealand (Niue)

E/1990/6/Add.2	Second periodic reports submitted by States parties to the Covenant concerning rights covered by articles 1 to 15, under articles 16 and 17 of the Covenant and in accordance with the revised schedule for submission of reports approved by the Committee at its fourth session: Italy
E/1990/6/Add.3	Idem: Canada
E/1990/6/Add.4	Idem: Mexico
E/1989/5/Add.1	Additional information submitted by States parties to the Covenant following consideration of their reports by the Committee: France
E/1989/5/Add.2	Idem: Netherlands
E/1989/5/Add.4	Idem: Jamaica
E/1989/5/Add.6	Idem: Jordan
E/1989/5/Add.7	Idem: Philippines
E/1989/5/Add.8	Idem: Panama
E/1992/23	Report of the Committee on Economic, Social and Cultural Rights on its sixth session.
E/1993/4	Fifteenth report of the International Labour Organisation under article 18 of the International Covenant on Economic, Social and Cultural Rights, submitted in accordance with Economic and Social Council resolution 1988 (LX)
E/C.12/1990/4	Rules of procedure of the Committee
E/C.12/1990/5	Revised schedule for the submission of reports by States parties under articles 16 and 17 of the Covenant approved by the Committee at its fourth session
E/C.12/1991/1	Revised General Guidelines regarding the form and contents of reports to be submitted by States Parties under articles 16 and 17 of the Covenant
E/C.12/1992/1	Provisional agenda and annotations: note by the Secretary-General
E/C.12/1992/2	States parties to the International Covenant on Economic, Social and Cultural Rights and status of the submission of reports in accordance with the programme established by the Economic and Social Council in resolutions 1988 (LX) and 1988/4 and

	rule 58 of the rules of procedure of the Committee: note by the Secretary-General
E/C.12/1992/L.1/Rev.1	Programme of work: note by the Secretary-General
E/C.12/1992/WP.1	Draft general comment prepared by Mrs. María de los Angeles Jiménez Butragueño
E/C.12/1992/WP.4	Discussion note prepared by Mr. Samba Cor Konaté
E/C.12/1992/WP.9	Discussion note prepared by Mr. Philip Alston
E/C.12/1991/SR.1-23 and SR.1-23/Corrigendum	Summary records of the seventh session (1st to 23rd meetings) of the Committee on Economic, Social and Cultural Rights

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