First regular session, 1984

SESSIONAL WORKING GROUP OF GOVERNMENTAL EXPERTS ON
THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

SUMMARY RECORD OF THE 12th MEETING

Held at Headquarters, New York,
on Monday, 23 April 1984 at 3 p.m.

Chairman: Mr. BENDIX (Denmark)

CONTENTS

Consideration of reports submitted in accordance with Council resolution 1988 (LX)
by States parties to the Covenant concerning rights covered by articles 6 to 9
(continued)

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CONSIDERATION OF REPORTS SUBMITTED IN ACCORDANCE WITH COUNCIL RESOLUTION 1988 (LX) BY STATES PARTIES TO THE COVENANT CONCERNING RIGHTS COVERED BY ARTICLES 6 TO 9 (continued)

Report of Chile (continued) (E/1984/7/Add.1)

1. Mr. MITREV (Bulgaria) said that the sufferings of the Chilean people under that country's military government had been clearly depicted in reports submitted to the Commission on Human Rights by the Special Rapporteurs on the situation of human rights in Chile. The military junta had terrorized the people of Chile through various means, with politicians and trade-union representatives as its main targets. He drew attention to the examples of flagrant violations of economic, social and cultural rights which had been enumerated in the reports submitted by Mr. Dieye in 1981 and 1982 and the report submitted by Mr. Lallah in 1983. He also drew attention to presentations in various press reports of data pertaining to the shrinking Chilean economy and the increasing unemployment and drop in real income which had occurred in Chile. Those facts had also been documented by the United Nations, despite the unwillingness of the Chilean Government to co-operate with the Special Rapporteurs, and they presented a picture that was quite different from the one contained in the report currently before the Working Group.

2. However, the report submitted by the Chilean Government could not obscure the fact that the deterioration of the socio-economic situation in Chile, which had been worse during the period covered by the report than at any time in Chile's history, was the result of the junta's oppressive policies. Those policies were evidence that the Chilean Government was not meeting its obligations under a broad range of human rights instruments and generally recognized norms in the field of human rights. He therefore agreed that the report was inadequate, misleading and totally unacceptable.

3. The CHAIRMAN, speaking as the expert from Denmark, said that it was no secret that his own country had for many years been concerned at the general situation in Chile and had consequently joined in sponsoring a number of resolutions condemning violations of human rights in that country. The Special Rapporteurs on the situation of human rights in Chile had made it clear that economic, social and cultural rights were being violated there. Consequently, the report submitted by the Chilean Government was not only inadequate but, in its wording, very far from the reality of everyday life in Chile. He shared the view that neither the statement by the representative of Chile nor the report itself adequately fulfilled Chile's reporting obligations in the field of human rights, and he appealed to the representative of Chile to inform his Government that many countries wished to see democratic rights and freedoms restored to the vast majority of the Chilean population.

4. Mr. SUAREZ (Chile) said that, as a State party to the Covenant, Chile had submitted a report on the implementation of articles 6 to 9 of that instrument to
the Working Group following the established guidelines. The views expressed and
comments made by the experts from the German Democratic Republic, France, the
Soviet Union, Denmark and Bulgaria were based on untrue assumptions and were
inappropriate for discussion in the present forum. Chile had already stated
clearly that the votes taken against it in the Commission on Human Rights, the
prolongation of the mandate of the Special Rapporteur, and the decisions adopted by
the Third Committee of the General Assembly and the Assembly as a whole were the
product of discriminatory and unjust treatment. The slanderous statements made by
many experts in the Working Group were extraneous to the purpose of the meeting,
which was to consider the reports of States parties impartially. The contents of
the Chilean report had been disregarded and irrelevant comments made. Chile had
rejected such unfair treatment in the Commission on Human Rights and rejected the
similar approach taken by certain experts. In view of the above, he felt that only
the question raised by the expert from Japan merited a reply.

5. The greatest difficulty facing Chile in meeting its obligations under
articles 6 to 9 of the Covenant was the problem of unemployment, which was
afflicting the world economy as a whole. Clearly, a country which relied on the
sale of export commodities for its income was seriously affected when the prices of
those commodities dropped. The falling price of copper on international markets,
combined with the world recession and rising interest rates for foreign
debt-servicing, undoubtedly affected national income. The unusually high
unemployment rate of 24 per cent which Chile had experienced in the past year was a
matter of great concern for the Chilean Government, which was expending much effort
to find a quick solution to that problem. Many initiatives had been undertaken to
alleviate the situation: greater budgetary resources had been allocated for
activities which generated employment. A social assistance network had been
established to meet the most pressing needs of the unemployed and a minimum
employment programme was currently in effect. Workers' salaries were subsidized
when an enterprise hired a certain number of employees as a means of encouraging
employment. Unemployment compensation in the amount of 75 per cent of salary or
wages was paid to persons who were laid off. School breakfast and lunch programmes
had also been established. The unemployment rate currently stood at 14.6 per cent
and the Chilean government hoped that the aforementioned initiatives would help
reduce it to 12 per cent by the end of 1984.

6. Mr. KORDS (German Democratic Republic) said that the evidence showed plainly
what was happening in Chile. The information which the representative of Chile had
just provided was therefore unnecessary. He proposed that the Working Group should
not accept the report submitted by the Chilean Government but demand that the
Government submit a new report.

7. Mr. TEXIER (France) said that he had asked specific questions about the report
to which he had received no answer; instead, because the questions embarrassed the
Chilean Government, the representative of Chile had accused the Working Group of
being biased. When a State party submitted a report which failed to give an
accurate picture of the human rights situation in that country, failed to answer
questions asked about the report and accused the Working Group of impartiality, it
was questionable whether the Working Group should accept the report. If the report had merely been incomplete, the representative of Chile might have provided the missing information. Since the Chilean Government categorically refused to do so, however, he believed that the Working Group should wait until that Government submitted a report that was consistent with reality. If it was not prepared to do so, there was no point in asking questions concerning the report. Under the circumstances, it would be more appropriate to put an end to the dialogue for the time being.

8. The CHAIRMAN suggested that, since the Working Group had been unable to obtain answers to the questions which it had put to the Government of Chile, it might perhaps include in the report of its current session, a statement along the following lines: "The members of the Working Group considered the report of Chile contained in document E/1984/7/Add.1. During consideration of the report of Chile, members of the Working Group referred to concern about the question of human rights in Chile expressed in United Nations bodies, in particular the United Nations Commission on Human Rights, and in General Assembly resolutions. Members of the Working Group believed that additional information should be provided by the Government of Chile in accordance with the general guidelines laid down by the Secretary-General".

9. Mr. SVIRIDOV (Union of Soviet Socialist Republics) supported the suggestion made by the Chairman. However, he thought that references to resolutions of the General Assembly and also the Commission on Human Rights should include all previous resolutions adopted, in order to show that the question had been under discussion for some time. Furthermore, he thought that the request for additional information should be worded so as to more accurately reflect the experts' view that the current report was aimed at covering up the true state of affairs in Chile.

10. The CHAIRMAN observed that the Working Group would finalize the wording of its statement when it came to adopt its report. For the time being, it was simply conveying the message to the Chilean Government that such a statement would be made since the Working Group was not satisfied with that Government's report or its answers. The Working Group had thus concluded its consideration of the report of Chile.

11. Mr. Suarez (Chile) withdrew.

Report of Spain (E/1984/7/Add.2)

12. At the invitation of the Chairman, Mr. Somalo Giménez (Spain) took a place at the table.

13. Mr. SOMALO GIMENEZ (Spain) explained that the length of his country's second periodic report could be attributable to the far-reaching political changes that had taken place in Spain since the submission of its initial report on articles 6 to 9. Since 1975, Spain had made the transition from dictatorship to democracy, a transition that had generated intense legislative and other activity, particularly

...
since the adoption of the Constitution in December 1978. Radical changes had occurred in Spanish legislation and daily life in relation to the rights covered by articles 6 to 9 of the Covenant.


15. In the area of domestic legislation, fundamental provisions had been adopted which included not only the Constitution but also the 1980 Act on the Workers' Charter. Major employer-employee agreements and collective agreements had also been extremely important for the implementation of articles 6 to 9. Finally, a Basic Employment Act had been adopted in October 1980 and was currently being revised to respond to the unemployment situation in Spain.

16. With regard to article 6 of the Covenant, article 38 of the Constitution provided that all Spaniards had the duty and the right to work. That provision was elaborated on in the Workers' Charter. Much had been done to adopt and implement legislation to combat discrimination in access to employment and action had been taken to promote employment. Such action included the regulation of fixed-term contracts, the implementation of contracts for the purpose of practical experience and training, the legal regulation of part-time work and the reduction of overtime. Measures had also been taken to plan manpower resources and analyse unemployment statistics. A National Employment Institute had been set up which was responsible, inter alia, for gearing the vocational and technical training of unemployed manpower resources, especially school-leavers, towards employment openings.

17. Protection against arbitrary dismissal was guaranteed by the Workers' Charter.

18. Implementation of the constitutional principle of non-discrimination on grounds of sex, marital status, race, origin, opinion, religion etc. was important for achieving equality of opportunity in employment. With regard to discrimination against women in employment, the elimination of both favourable and unfavourable discrimination had been very important. After the adoption of the 1978 Constitution, the courts had had to deal with many charges of discrimination brought by women under article 14 of the Constitution and article 17 of the Workers' Charter. As one example, there had been cases of women who, as many as 20 or 30 years previously, had been forced to give up their jobs because they had married. In all those cases, the courts had ruled in favour of the women's claims for compensation or reinstatement.

19. With regard to article 7 of the Covenant, article 35 of the Constitution recognized the right to adequate remuneration without discrimination. There were no clear statistics on the genuine realization of equal pay for equal work by men and women, but his Government was following the EEC guidelines guaranteeing equal
treatment, employment conditions, promotion opportunities and social security for women.

20. The right to safe and healthy working conditions was guaranteed by the Constitution, Workers' Charter and the institutional management of social security, health and employment as well as by the National Occupational Safety and Health Institute and by Spain's ratification of the European Social Charter and of ILO Convention No. 148. The Constitution also guaranteed the right to the protection of health, the quality of life and the environment.

21. With regard to article 8 of the Covenant, considerable progress had been made in the area of trade union rights. Pursuant to the Constitution, the Workers' Charter recognized the right to freedom of association. To enjoy legal personality, workers' and employers' associations must simply deposit their statutes and prove that they operated democratically. It was as a result of the widespread exercise of trade union rights that many standards for industrial relations had been agreed to by workers and employers not only in collective agreements at company level but also at the higher level of outline agreements. Thus workers and management had co-operated in creating appropriate outline agreements for 1980, 1981 and 1983 which set standards with regard to wages and other conditions of employment. The country's main trade unions and the Federation of Employers' Organizations had worked together in a spirit of solidarity and accommodation to set those standards.

22. Some restrictions on the right to form and join trade unions were imposed by the Constitution and the Workers' Charter on certain groups such as the armed forces and civil servants. The right to strike was recognized by the Constitution and the Workers' Charter and also by Royal Decree Law No. 17-1977 on labour relations. Since that Decree predated the Constitution, the Constitutional Court had ruled subsequently that, subject to minor amendments, it remained valid.

23. With regard to article 9 of the Covenant, the Constitution guaranteed the right to social security. The Government was moving towards the establishment of a public social security system for all citizens. At present, the social security system was governed by the 1974 General Social Security Act, the 1976 regulations on benefits and various ministerial orders. He wished to emphasize that, when a social security system was funded by contributions, serious financing problems arose in times of economic recession when the number of contributors was reduced by unemployment. Another problem was the social cost of employers' contributions. His Government was trying to lessen the burden on employers as far as possible. At present, the overall contribution under the general social security system represented roughly 29 per cent of a worker's wage, 24 per cent being contributed by the employer and a little over 4 per cent by the employee. To this must be added the cost of contributions to special schemes covering occupational diseases, which varied from sector to sector.

24. There had been considerable legislative activity in the six months since Spain had submitted its latest report. He could provide written information on such
activity if members so wished, but would refer to it briefly in the present introduction. At international level, on 11 April 1984 the Council of Ministers had recommended ratification of ILO Conventions Nos. 154, 156 and 157 and ILO recommendations on collective bargaining, workers' health and safety, equal opportunities and treatment for male and female workers and termination of the employment relationship by the employer.

25. To deal with the problem of massive unemployment and promote employment, a December 1983 decree had created incentives to encourage companies to recruit workers over 45 years of age. Those incentives included subsidies, reduced social security contributions and the possibility of free vocational retraining for such workers. Those incentives were not given to companies which had already drastically reduced their work force.

26. One of the main causes of unemployment was the current process of industrial redeployment in which there was no area of economic activity in which deployment did not have repercussions for the labour force. Those repercussions must be considered objectively in view of Spain's intention of joining the EEC. In order to guarantee the competitiveness of Spanish industry, a reindustrialization and redeployment plan had been adopted under which the Government intended to hear the views of management and workers in the industry concerned, consider the sector targeted for redeployment and set labour standards to minimize the adverse effects for workers who were laid off by helping them find alternative employment or training them for other industrial or labour sectors. In February 1984, a number of decrees had set up employment promotion funds for that purpose. There was also a community employment plan which included a rural employment programme under which unemployment subsidies went to rural workers in Spain's most depressed regions, Andalusia and Extremadura.

27. On 21 December 1984, a Miners' Statute had been enacted which, for the first time, provided for uniform treatment and employment conditions for miners. The Statute included medical guarantees for the prevention of occupational diseases and provided for participation in management for certain jobs to ensure that they were not dangerous.

28. In the area of social security, employers' contributions had been reduced by 1.5 per cent. In the area of equal rights and opportunities for men and women workers, the employment of women in the public sector had increased dramatically. With regard to the employment of aliens, an act on the right of asylum and the status of refugees had been promulgated in March 1984. The provisions of that act were extremely generous and included the granting of refugee status to refugees found guilty of political offences in their own country which were not regarded as offences under Spanish law. Such individuals were accorded preferential treatment so that they enjoyed virtually the same rights as Spanish nationals in the areas of recruitment and employment.

29. The CHAIRMAN commended the report of Spain and noted, in particular, that it was the first report submitted to the Working Group to annex global statistical data which contributed significantly to an understanding of the report as a whole.
30. **Mr. KORDS (German Democratic Republic)** observed that Spain's latest report reflected the continuing efforts being made by the Spanish Government to implement the provisions of the Covenant. The report was comprehensive and informative and provided the necessary statistics.

31. With regard to the action being taken to combat unemployment in Spain, measures to promote employment were central to Government policy in order to enable the population to effectively exercise its rights under the Covenant. In Spain's case, one reason for unemployment was the structural readjustment of industry which made thousands of workers redundant. Clearly, the Government was now taking steps to re-employ such workers, but what had it done thus far and what problems had it faced in that area?

32. With regard to the relationship between inflation and wage increases, it was important to guarantee the population a constant standard of living and he wished to know whether the Government had a policy of pegging wage increases to the inflation rate.

33. **Mr. TEXIER (France)** commended Spain on its report and the additional information just provided. His only reproach, if it could be called one, was that the report was very long because of the Spanish Government's tireless legislative and other efforts in recent years. Since the submission of its initial report on articles 6 to 9, Spain had made tremendous strides in the protection of the rights enshrined in the Covenants.

34. He was gratified that Spain had adhered to the Working Group's guidelines by providing copious statistics both in the body of the report and in the annex. It was also most enlightening for him to discover from the report that Spain was facing problems very similar to those faced by France and was following a similar course in dealing with them.

35. Turning to the introduction to the report, he was interested in the steps taken by Spain to combat unemployment. Spain's approach contrasted sharply with that adopted by Japan, for instance. Among other things, Spain had brought forward the retirement age to promote the employment of young people. He wished to know what actual impact that measure had had on the employment of young people.

36. With regard to article 6, he was impressed by the action taken to provide employment for the disabled, the elderly and school-leavers. He was interested to note from paragraph 8 that provision had been made for all workers, without distinction as to sex, to take voluntary unpaid leave for the birth of children. A similar measure had recently been adopted in France, where an increasing number of fathers were taking such leave while mothers continued to work. He would be interested to know what effect that measure had had in Spain and how many fathers had availed themselves of such leave.

37. He was extremely interested in the action taken to promote the re-employment of workers who lost their jobs through industrial redeployment and restructuring, for instance, the provision of vocational retraining courses.
38. Paragraph 17 of the section on article 6 provided information on the employment of aliens. He wished to know whether persons requesting asylum in Spain had access to employment or whether it was necessary to obtain official refugee status first. In regard to paragraph 27 (b), he requested further information on the system of indeterminate contracts, particularly with regard to seasonal work. In general, although certain problems still persisted in Spain, the Government had made considerable progress in the implementation of article 6 of the Covenant.

39. Further information would be appreciated with regard to the Wage Guarantee Fund referred to in paragraph 3 of the section on article 7 of the Covenant. He expressed satisfaction at the detailed information provided on the minimum wage.

40. With regard to the table given in paragraph 50 of the section on article 9 showing expenditure on family protection, he wished to know why the amount for 1983 was lower than that for 1977. Lastly, the table given at the end of that section, showing the ratio of the population covered by the social security system to the total population, indicated that a certain percentage of the total population was not covered. He asked what sectors of the population were not covered by the social security system.

41. Mr. SVIRIDOV (Union of Soviet Socialist Republics) expressed satisfaction at the comprehensive information provided by the Government of Spain with regard to legislation and concrete measures for implementing the provisions of the Covenant. It was gratifying to note the serious approach taken by the Spanish Government in that regard.

42. The report frankly admitted that the Government had encountered difficulties in implementing the provisions of the Covenant, particularly because of the current economic crisis in the country. With regard to the medium-term Programme for the Spanish economy referred to in paragraph 9 of the Introduction to the report, he asked for what period of time the Programme had been adopted. Had the Programme been fulfilled? If so, had supplementary programmes or measures been adopted? Lastly, he inquired as to the prospects for carrying out the reform of the social security system referred to in paragraph 2 of the section on article 9.

43. Mr. MITREV (Bulgaria) expressed satisfaction at the comprehensive information provided in the report of Spain. The statistical data were particularly helpful in understanding the degree of progress made in implementing the provisions of the Covenant. It was evident that the Government was seriously committed to carrying out its obligations in that regard. He shared the concern expressed in the report concerning the serious unemployment situation in the country.

44. Further information would be appreciated with regard to expenditures for the programmes for the promotion of co-operatives referred to in paragraph 61 of the section on article 6. What type of programmes were they and how were they implemented? With regard to the voluntary unpaid leave for the birth of children referred to in paragraph 8 of the same section, what was the minimum amount of leave granted to women before the birth of a child, could mothers receive unpaid
(Mr. Mitrev, Bulgaria)

leave for a long period of time after the birth of a child and what were the specific provisions of Spanish law concerning job protection for mothers during unpaid leave for the birth of children?

45. Referring to the information on the implementation of article 7 of the Covenant, he inquired whether the existing system for ensuring safe and healthy working conditions guaranteed the rights of trade unions by monitoring and protecting the safety of the work place.

46. The table in paragraph 61 of the section on article 9, showing the ratio of the population covered by the social security system to the total population, indicated a reduction in the percentage of the total population covered in 1982 as compared with 1981. What was the reason for that reduction and what protection was provided under existing legislation to persons not covered by the social security system?

47. Mr. IIYAMA (Japan) expressed satisfaction at the comprehensive report submitted by the Government of Spain. With regard to the section on the implementation of article 6 of the Covenant, paragraph 57 provided information on temporary employment in work of social utility. In what specific sectors of the economy were part-time workers employed? Were there more male workers than female workers in such jobs? If so, why?

48. The social security system in Spain was impressive. He inquired whether non-nationals could enjoy the same benefits under that system as nationals.

49. The CHAIRMAN, speaking as the expert from Denmark, said that it was gratifying to note that, in its second periodic report, the Government of Spain had responded to the observations made by the Working Group concerning the initial report and had followed the guidelines closely. The statistical and chronological data in the report were particularly useful. The table on page 70 of the report, showing the rate of coverage of unemployment insurance in the past three years, indicated a significant drop in 1982. He requested further information on the reasons for the reduction in the rate of coverage. Additional information would also be appreciated with regard to the coverage of unemployment insurance provided to women.

50. Mr. Somalo Gimenez (Spain) withdrew.

Report of Rwanda (continued) (E/1984/6/Add.4)

51. At the invitation of the Chairman, Mr. Sibomana (Rwanda) took a place at the table.

52. Mr. SIBOMANA noted that the expert from Bulgaria, referring to paragraph 9 of Rwanda's report, had raised a question as to what would be considered "legitimate grounds" for dismissal of a worker. Legitimate grounds were those recognized by law. With regard to the question by the expert from Denmark about an apparent contradiction between paragraphs 27 and 17 of the report, there was no form of
discrimination in wages. Rwandese legislation made it clear that public employees who received positive annual evaluations might be called upon to assume greater responsibility when higher posts became available. He could not provide more information at that time but additional information would be provided in later reports.

53. With respect to the question concerning paragraph 46, as to whether teachers as well as police and security forces were denied the right to strike, the law applied to all public servants because of the essential functions they performed.

54. The experts from Denmark and France had raised questions regarding the small number of beneficiaries of the social security scheme. All workers were covered by social security but, since the social security system was less than 25 years old, most potential beneficiaries had not yet retired. Many of those who had earned benefits before decolonization had lost them because of the negligence of the colonial authorities, which had led to a dispute over the assets and liabilities of the pension funds.

55. In answer to the query raised by the expert from the German Democratic Republic concerning Rwanda's intentions of improving its economic situation, he said that the planned liberalism of the Government, as embodied in the development plan for 1980-1986, was based on attaining self-sufficiency in food, better use of human resources, an improvement in general living conditions and, in the field of foreign relations, access to the sea.

56. The experts from France and Bulgaria had requested more information on the centralization of job supply and demand in the country. Centralization was not a problem in Rwanda because the Ministry of Public Services and Employment, which had branches in each prefecture, set guidelines for the placement of workers.

57. In response to the experts who had expressed surprise at the low unemployment rate, he explained that, since 92.9 per cent of the population were peasants who were self-supporting, the average overall unemployment rate tended to be low. In urban centres, however, where the inhabitants were wage earners, the unemployment rate was relatively higher. The information requested on the current level of wages would be provided in a later report.

58. With regard to the question of the expert from France on whether there were any exceptions to the maximum 45-hour work week, the only authorized exceptions were, as noted in paragraph 38, guards and hotel and restaurant employees. In reply to the same expert's question as to how many trade unions there were, paragraph 47 stated that the difficulties affecting the realization of trade union rights were due mainly to problems caused by a shortage of union leaders. Within the framework of the Mouvement révolutionnaire national pour le développement, a national workers' union was expected to be established in the future. The expert from France had also asked what currency had been used in calculating the sums referred to in part B of the section on article 9. The Rwanda franc was the basis of calculation, there being 93 Rwanda francs to $US 1.
59. Regarding the question about the role of women in the work-force, in rural areas the entire family worked together and in the cities there was no discrimination in hiring. There were fewer women in the work-force because the colonial past had favoured the training of men. After independence, policies had been designed to eliminate that imbalance, and women occupied positions of responsibility as ministers and in the Mouvement révolutionnaire national pour le développement.

60. The expert from Spain had requested more information on unemployment benefits. It had not yet been possible to set up such facilities. That situation had not created survival problems, however, because all citizens in the rural areas owned land, and urban dwellers could return to their families' land if necessary. The State planned to develop new exploitable areas by reclaiming marshland, thereby adding to the supply of usable land.

61. In reply to several questions raised by the expert from Bulgaria concerning the categories covered by the Labour Code mentioned in paragraph 13 and concerning maternity and family benefits, he said that all workers were covered by the Labour Code except expatriate workers, who were covered by contractual agreements between the countries concerned, and that more maternity and family benefits would be provided as soon as the country's economic difficulties had been overcome.

62. With regard to the question asked by the expert from Tunisia about Rwanda's efforts to provide vocational training in agriculture, the first technical facilities in Rwanda had been set up with agriculture and medicine in mind. An agronomy department had been given highest priority at the national university, and the Institute for Agronomic Sciences was one of the oldest institutes in Rwanda. The Government was paying particular attention to that Institute and to veterinary training, and Algeria was providing aid for a training institute which was now under construction. Communal development and training centres were also attempting to train peasants in more modern methods of agriculture.

63. The Chairman's reminder about the lateness of his country's reports on the implementation of articles 10 to 12 and 13 to 15 of the Covenant would be transmitted to his Government. Any unanswered questions would be dealt with in detail in Rwanda's second periodic report on the implementation of articles 6 to 9 of the Covenant.

64. The CHAIRMAN said that the Working Group had concluded its consideration of the report of Rwanda.

The meeting rose at 5.45 p.m.