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

SUMMARY RECORD OF THE 3rd MEETING

Held at Headquarters, New York,
on Tuesday, 6 April 1982, at 10.30 a.m.

Chairman: Mr. BURWIN (Libyan Arab Jamahiriya)

later: Mr. BORCHARD (Federal Republic of Germany)

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The meeting was called to order at 11 a.m.

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

Report of Barbados (E/1978/8/Add.33)

1. At the invitation of the Chairman, Mr. Moseley (Barbados) took a place at the table.
2. Mr. MOSELEY (Barbados) said that it had been the policy of both political parties which had ruled the country over the past 20 years to make economic, social and cultural development a continuous process. It would be noted that the legislation mentioned in the report went back many years. Barbados may not have led the way in its area in reinforcing human rights in the fields under consideration, but it had not been far behind. Hardly any of the legislation mentioned was not subject to periodic revision and his country's whole economic policy was geared to removing the welfare aspect of development and to providing guarantees that its citizens would enjoy the right to a better quality of life.
3. Mr. BOUFFANDEAU (France) asked, with respect to an apparent contradiction in the report's paragraph on the right to strike (art. 8, sect. E) whether there was in fact a right to strike and what additional information could be given on the conciliation and arbitration procedures mentioned.
4. Mr. AKAO (Japan) wished to know what percentage of workers were enrolled in trade unions and whether the Government envisaged introducing a legal right to strike if, as was stated, it did not already exist.
5. Mr. MRATCHKOV (Bulgaria) asked, with reference to the statement that there was no legislation which guaranteed against discrimination in access to employment in the private sector (art. 6, sect. B (1)) whether the Government envisaged measures to introduce such guarantees. He also wished to know if more recent figures were available than those provided on the estimated levels of employment and unemployment at the end of the first quarter of 1978 (art. 6, sect. C), to give some indication of trends in the labour market.
6. Mrs. de ARANA (Peru) asked, with reference to the statement that the unlawful association of persons for other than trade union purposes (art. 8, sect. D (2)) was prohibited, what types of association were considered unlawful, and what legislation and restrictions applied. Secondly, with reference to statements that certain social security payments were apportioned between the qualifying spouse and children (art. 9, survivors' grants, survivors' pensions and death benefit), she wished to know if any distinction was made between children born in and out of wedlock, what was meant by "qualifying" and, if indeed there was differentiation, what protection there was for illegitimate children.
7. Mr. ALLAFI (Libyan Arab Jamahiriya) asked for clarification of statements that the right of an individual to work was limited only by the fact that there were

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insufficient jobs and that section 14 of the Constitution of Barbados provided that no person should be required to perform forced labour (art. 6, sect. B (1)).

8. Mr. MARDOVICH (Byelorussian Soviet Socialist Republic) asked, with reference to the same section, what government measures were envisaged to increase the number of jobs available and to remedy the lack of legislation prohibiting discrimination in access to employment in the private sector. He also wished to know if the statement that arrangements for collective bargaining covered about 40 per cent of the labour force (art. 7, sect. A (2)) meant that the remainder were not covered by such collective agreements. Finally, he referred to the statement that there were no formal legal provisions for or against federation of trade unions (art. 8, sect. C) and asked what role was played by trade unions in protecting the interests of hired workers and improving their working conditions, bearing in mind that elsewhere in the report (art. 7, sect. B (4)) it was stated that occupational accidents in 1977 had numbered 1,374, which amounted to 1 1/2 per cent of all workers. What measures were envisaged to improve those working conditions?

9. Mr. BORCHARD (Federal Republic of Germany) said that although the report contained a list of relevant laws and regulations, it would perhaps have been better if their contents had been outlined so that their effects could be better appreciated. In particular he wished to know whether the statement listing the main categories of workers whose wages were not yet set by collective bargaining or statutory minimum wage fixing (art. 7, sect. A (2)) implied that there was no minimum wage for those workers. Secondly, he would like fuller statistics than those given in annex I so as to have a better picture of trends in real income over the past decade. Finally, he wished to raise the general question of how trade unions operated, especially in the sugar industry, since that was one of the most important parts of the economy.

10. Mr. BERGTHUN (Norway) agreed with the previous speaker that it would have been helpful to have some indication of the contents of the various Acts and regulations listed and suggested that perhaps the next report might remedy that lack. He wished to ask what steps were taken to make the contents of the regulations known to the population since, without a special effort, it would not be easy for citizens to know what had been done to promote their rights. Secondly, he wished to know what had been done to promote the interests of women in the labour force, especially with regard to equal pay, and suggested that statistics might perhaps be provided, as in the Canadian report.

11. Mr. SOFINSKY (Union of Soviet Socialist Republics) said the statement that draft legislation was being considered to prohibit discrimination based on race and colour in contracts of employment implied that such discrimination was still practised. He wished to know what race and colour suffered such discrimination.

12. Mr. ADOSSAMA (International Labour Organisation) said that the ILO Committee of Experts provided information in the annex to its 1982 report (E/1982/41) on the situation in Barbados with regard to certain ILO conventions relevant to articles 6-9 of the Covenant. Those relevant to the right to work which had been ratified included the Conventions concerning Employment Policy, Forced or Compulsory Labour and Discrimination in Respect of Employment and Occupation. The

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Government's first report on the Convention concerning Employment Policy had only just been examined and the points on which further information had been requested were indicated in the Committee of Experts' report. The Committee had also been concerned to ascertain the results of various measures to increase employment, particularly among women and young persons, and it had noted the Government's intention to enact legislation prohibiting discrimination in employment.

13. Barbados had also ratified Conventions relevant to article 7 of the Covenant, dealing with wages and occupational safety. There were a considerable number of ILO instruments in that field to which further attention might be given in promoting implementation of the Covenant. Finally, Barbados had also ratified a series of ILO conventions on freedom of association, trade union rights and social security which were relevant to articles 8 and 9 of the Covenant.

14. Mr. MOSELEY (Barbados), replying to the questions raised, said that to understand his country's report and legislation, it was necessary to look at its economic and social history. It was not by accident that the two main political parties which had held power over the last 40 years, both before and after independence, were called labour parties. The competition for power, ever since there had been a responsible Government of representatives of the people, and even before, rested on the parties' readiness to provide progressive improvement in the quality of life. It would be noted that much of the legislation listed in annex II dated from 1970 and 1976, when, after 15 years of rule by one party, the present government party rose to power. The political foundation of Barbados was its labour legislation. There was universal suffrage from 18 years of age and the free trade unions kept a constant watch on government.

15. On the question raised by the representative of France, regarding the apparent contradiction between the statement that there was no legal right to strike and the subsequent statement that the right to strike was not usually exercised until after conciliation and arbitration had failed, he pointed out that the first statement simply meant that there was nothing in the law specifically establishing the right to strike. But there was a constitutional right to join or form a trade union and the freedom of workers not to work was enshrined in the Trade Union Act of 1964. The word "strike" did not appear in legislation but there was a right to withhold labour, and the law allowed trade unions to do just that, even where the Government was the employer. The country had several trade unions and there was nothing either in law or in practice to prevent anyone joining them. The General Secretary of the General Workers' Union had been active in the ILO for many years and was still active in the major opposition party. Thus, there were no restrictions whatsoever on the right to strike where circumstances warranted it, apart from the legal machinery for settling disputes. In fact, the general pattern was one of negotiation and conciliation and his country had a proud record of labour relations over the years.

16. The representative of Japan had asked what percentage of workers were unionized. According to the latest figures, one union alone had over 30,000 members, out of a total population of 250,000. The National Union of Public Workers had a membership of about 15,000 to 20,000 and there were several other

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unions with substantial memberships. The percentage of unionized workers was thus fairly high.

17. With regard to the questions raised by the representative of Bulgaria, he said that the need for legislation to prevent discrimination in access to employment was fairly minimal, although it did exist. The reasons for that situation could be found in the country's history. In the nineteenth century, the two main races in Barbados were Europeans and Africans, the former being mainly landowners but including some indentured labour and the latter being slaves. Most of the land was in the hands of the European minority and the legislation of that era was designed to protect the system of inherited wealth so that Europeans did not lose their land. A fairly liberal approach to education had resulted in considerable progress over the years, however, and by the twentieth century Europeans enjoyed special authority or influence only in the private sector, and even that influence had declined in recent years. Since the vast majority of the population was of African descent, the private sector had in fact found that it was no longer efficient or profitable to discriminate against that particular group when providing employment. The trend, especially over the past 10 to 15 years, had been to employ the better-educated person irrespective of race. Of course, there was legislation prohibiting discrimination on grounds of race, but it was very difficult to trace such discrimination unless it was overt. The weight of public opinion had eliminated the need for direct legislation apart from that contained in the country's Constitution and general legal statutes. The matter had also been kept under constant review by successive governments since it would be virtually impossible for a government to survive in Barbados if there were any overt racial discrimination in employment. Discrimination on grounds of race was prohibited in the public service and the Government was the country's main employer. Most public employees were of African descent and only one or two generations removed from the working class thanks to the country's very liberal education policy.

18. With regard to the question raised by Bulgaria, he wished to refer to a speech made on 1 April 1982 by the Prime Minister and Minister of Finance in introducing the latest budget, according to which employment data derived from the Continuous Household Sample Survey carried out on a quarterly basis by the politically independent Statistical Service showed that the average unemployment rate in 1981 had been 10 per cent of the labour force as against 12 per cent in 1980. The total labour force had decreased from 114,800 in 1980 to 114,300 in 1981 but the quarterly average of persons employed had been 101,900 as against 100,300 in 1980, so that on average 1,600 more people had found jobs during 1981. Of persons employed in that year, 58,200 had been males and 43,700 females. Male unemployment had dropped from 9.2 per cent in 1980 to 7.3 per cent in 1981, while female unemployment had dropped from 16.7 per cent to 15.1 per cent. Comparison of data for the fourth quarter of 1976 with that for the fourth quarter of 1981 showed that the labour force had recorded a net growth of 10,200 persons or 9.9 per cent while the total number of persons employed had increased from 91,000 to 102,800, an increase of 11,800 or 13 per cent over the five-year period. Barbados had been able to reduce unemployment in spite of the current world economic recession, partly as a result of considerable government expenditure on public investment projects over the past five years, especially in manufacturing, and partly because of the improved economic climate created by the Government since 1976, including

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the removal of unnecessary controls on retail and wholesale trade. Employment in that sector had increased by 7,900 persons or 45.7 per cent since 1976.

19. In reply to the question raised by the representative of Peru, he said that Barbados, like most Caribbean countries, had a history of births out of wedlock. Discrimination against illegitimate children had now virtually disappeared, however, and the term "illegitimate" was no longer used by the law courts. Under the Status of Children Act, children who were technically illegitimate could now establish their parenthood and enjoy the same privileges and duties as other children.

20. To the question raised by the representative of Libya, he replied that there was no such thing as forced labour in Barbados. Forced labour was prohibited by the Constitution and the Trade Union Act and the greatest pressure on individuals to work was economic pressure and availability of jobs.

21. The representative of the Byelorussian SSR had asked what steps the Government had taken to increase the number of jobs and what part was played by trade unions. As he had already indicated, the trade unions played a major role and the various political parties encouraged trade union representation. With regard to job creation, there was a limit on what the Government could do to increase the number of jobs. It had, however, frequently expanded its capital expenditure programme for that purpose.

22. With regard to the omission to which the representatives of the Federal Republic of Germany and Norway had drawn attention, he said that his delegation would seek to remedy the fact that it had not explained the content of the different laws it had cited.

23. On another point raised by the representative of the Federal Republic of Germany, he said that the minimum wage figures in annex I and the retail price index did provide a true picture of the situation in Barbados. The retail price index always served as a basis for wage fixing but, since Barbados was a country with very few natural resources and a very high population density, it was always vulnerable to international economic forces. Consequently, there had rarely been a retail price index which enabled the lowest-paid workers to meet all their basic needs. The mere fact that such an index existed, however, showed that the Government was committed to narrowing the gap between wages and prices. It should also be noted that, despite a drop in the inflation rates of the country's major trading partners, rising local costs had kept inflation at a constant level in Barbados. A minimum wage as such did not exist except for women shop employees, but efforts were under way to create a framework for extending the minimum wage to other categories of workers.

24. The representative of Norway had asked how the Government made its legislation known to the public. In addition to the Official Gazette which was published on a regular basis, there was a Government information service which published factual data, including statistics, and the press, television and radio were free to publicize and criticize government policies.

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25. Barbados was in the forefront of regional efforts to improve the status of women and eliminate discrimination based on sex. Single-sex government schools had been abolished and the same facilities were provided for pupils of either sex.

26. In response to a question by the representative of the Soviet Union concerning the colour of victims of discrimination, he wished to reiterate that, in the past, people of African descent had suffered discrimination by those of European descent, but that now the Governor-General, the Prime Minister, most of the Cabinet and all of the members of the legislature were of African or mixed descent. The only remaining discrimination was to be found in the private sector. In practice, there was virtually no racial discrimination in the Government, government service or commerce. In social life, there was still some discrimination by those of European descent against those of African descent and also, however deplorable that might be, some reverse discrimination. It should be remembered, however, that those of African descent had had few opportunities open to them in the past while Europeans had had many. The balance had now been significantly redressed and what remained might be said to be private prejudice rather than actual discrimination.

27. Mr. SOFINSKY (Union of Soviet Socialist Republics) requested clarification of the rules governing the payment of maternity benefits.

28. Mr. MOSELEY (Barbados) explained that, according to the 1967 laws on national insurance and social security benefits, maternity benefit was payable for a period commencing not more than six weeks prior to the expected date of confinement and ending six weeks after confinement, at a daily rate equivalent to 60 per cent of average insurable weekly earnings divided by six.

29. With regard to the point of clarification raised by the representative of the Byelorussian SSR regarding the percentage of workers covered by collective bargaining, he said that 40 per cent of the work force was currently covered by collective bargaining agreements of two or three years duration, entered into with established trade unions. The rest of the labour force, unionized or otherwise, did not necessarily have such agreements. For instance, public employees had regulations and general orders which their unions helped to draw up but there was no collective bargaining such as existed in private industry. Other employees such as teachers had some kind of established contract and right to negotiate. Collective bargaining as such existed in the agricultural sector, where, at the beginning of a crop harvest, agricultural workers agreed on the price of labour for the crop in question.

30. Mr Moseley (Barbados) withdrew.

31. The CHAIRMAN said that, if he heard no objection, he would take it that the Working Group had concluded its consideration of the report submitted by Barbados concerning rights covered by articles 6-9 of the Covenant.

Report of Italy (E/1978/8/Add.34)

32. At the invitation of the Chairman, Mr. De Stefanis, Miss Cao-Pinna and Mr. Librando (Italy) took places at the table.

33. Mr. DE STEFANIS (Italy), in a preliminary statement on his country's report (E/1978/8/Add.34), said that it marked an important stage in the work of an Interministerial Committee on Human Rights established by 1978 by the Ministry of Foreign Affairs following Italy's ratification in 1977 of the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights and the Optional Protocol thereto. In addition to maintaining close and continuous co-operation between all the public and independent bodies concerned with the implementation of the Covenants at the national level, the Interministerial Committee had the important task of preparing all reports on human rights and examining ways and means of improving national legislative and administrative provisions with a view to achieving the fullest possible enjoyment of human rights and fundamental freedoms in Italy. Moreover, once the work of compiling and updating Italy's reports on the Covenants had been completed, the Committee would be responsible for investigating ways in which those reports might be used at the national level for the development of a set of basic principles and rules for the protection of human rights as well as for educational purposes.

34. Miss CAO-PINNA (Italy), introducing Italy's first report on the International Covenant on Economic, Social and Cultural Rights, stressed the considerable importance which her country attached to reporting on the implementation of the Covenant in accordance with article 16 and subsequent Council resolutions. Having submitted two reports on the elimination of racial discrimination to the Committee on the Elimination of Racial Discrimination and one report on the implementation of the International Covenant on Civil and Political Rights and the Optional Protocol thereto to the Human Rights Committee, Italy considered that the process of reporting established a constructive dialogue and between the bodies set up for monitoring purposes and the representatives of the States Parties to the Covenant and provided a means of assessing the human rights situation throughout the world.

35. Central to the relationship between the Covenant and Italian domestic law was article 10, paragraph 1 of the Italian Constitution which stated that "Italy's legal system conforms with the generally recognized principles of international law". That fundamental principle not only inspired the country's foreign policy, but also ensured that the domestic legal system was constantly brought into line with conventional international law, including international covenants on human rights. In order for Italy to ratify or accede to an international treaty, an Act had to be passed by Parliament on the one hand authorizing the President of the Republic to ratify the treaty and on the other, stipulating that domestic legislation must reflect the new international commitments. The text of any domestic Act passed for that purpose thus reproduced in extenso the text of the corresponding international.

36. However, the implementation of the Covenant on Economic, Social and Cultural Rights was not confined merely to the enactment of an Act placing the provisions of the Covenant on the same footing as national legislative provisions for enforcement by the judiciary, which, in the hypothetical case of a conflict between the two, would tend to rule in favour of the Covenant. Indeed, the new legislation promulgated in Italy after ratification of the Covenant concerning on the establishment of the National Health Service and the exercise of trade union rights in the armed forces and the police forces was actually more far-reaching than the Covenant itself.

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37. The protection of economic rights provided under the Italian legal system in conformity with articles 6 to 9 of the International Covenant on Economic, Social and Cultural Rights was in full compliance with the provisions of the Covenant, although there were certain minor omissions with regard to more detailed provisions of the numerous ILO Conventions ratified by Italy.

38. Articles 1, 4 and 35 of the Constitution relating to the fundamental importance of labour within the Italian socio-economic system, recognition of the right of all citizens to work and the safeguarding of labour in all its forms and manifestations, met all of the requirements of article 6 of the Covenant. Moreover, paragraph 3 of article 35 established that "the Republic promotes and encourages international agreements and organizations calculated to confirm and regulate the rights of labour". Articles 36 and 37 of the Constitution relating to the right to just and favourable working conditions, work by women and by the young, met all the requirements of article 7 of the Covenant as well as the basic principle established in article 3 regarding equality of rights for men and women in the enjoyment of all economic, social and cultural rights. Articles 39 and 40 of the Constitution relating to trade union rights and the right to strike met the requirements of article 8 of the Covenant. Finally, articles 32 and 38 of the Constitution relating to the right to health care and other social security entitlements met the requirements of article 9 of the Covenant.

39. Taken as a whole, those nine articles of the Italian Constitution constituted an organic system of human rights protection very similar to that embodied in the Covenant. However, economic rights could not be considered in isolation, from civil and political rights and in particular from all fundamental freedoms. As stated in article 3 of the Italian Constitution, the enjoyment of the latter, combined with the removal of all economic and social obstacles, was a precondition for full development of the individual and full participation of all workers in the political, economic and social organization of the country.

40. The extent to which the spirit and letter of the pertinent articles of the Constitution were reflected in specific national legislation, the rulings of the Constitutional Court and the jurisprudence had been described in the report. Her comment would be directed to the process by which the existing system for the protection of economic rights had evolved and on the difficulties which Italy still faced in its efforts to improve the legal system.

41. Initiated at the end of the Second World War after the fall of a 20-year dictatorship, the process had been continuous and progressive. The Italian Constitution having entered into force on 1 January 1948, the reform of the legal system had reached its peak in terms of economic rights in the 1960s and 1970s and was continuing in the 1980s. It was in the 1960s that the "social pension" for every citizen over 65 with a fixed income was introduced as a fundamental component of the Italian social security system, that the discretionary dismissal of workers by employers was made illegal except with just cause or on justified grounds, that public service careers previously reserved for men such as judgeships and diplomatic posts were made accessible to women and that the exercise of trade union rights was extended to civil servants. Even more rapid progress was made in the 1970s with the passing of a "workers' statute" embodying trade union rights and

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stipulating that the State was committed to a policy of support for the unions, with a radical reform of the health care system through the creation of the National Health Service, with the abolition of discrimination between men and women in terms of employment and with the introduction of a system of wage compensation for the protection of workers in the event of a reduction in working hours or layoff.

42. However, the progress achieved did not obviate the need to improve the existing system for the protection of economic rights. There were still significant obstacles in the way of full employment, which were largely due to the structure of the national economy and the fact that a large area of southern Italy was still in the developing stage. Furthermore, that structural imbalance had been compounded in the 1970s by a decline in the rate of development and a high level of inflation accompanied by an increase in the demand for employment. For instance, the figure of 1.7 million unemployed quoted in the statistical tables annexed to the report had now risen to nearly 2 million. One of the highest economic priorities of the Government was therefore to design an over-all development policy aimed at creating new job opportunities, particularly for young people seeking employment for the first time.

43. There was also room for further improvement in ensuring access to employment and employment protection for aliens from countries outside the European Economic Community seeking paid employment in Italy without the necessary work permit. A vigorous campaign was being conducted to remedy that situation and the Government had introduced a bill in Parliament, taking into account ILO Convention No. 143 of 1975 and proposals made by major trade unions, with the twofold aim of avoiding exploitation of foreign workers and preventing social disorder connected with the illegal status of aliens. More information on that subject would be provided by Mr. Librando, a judge in charge of legal affairs at the Ministry of Justice.

44. New laws also needed to be adopted or national legislation strengthened in order to combat prejudice and discrimination against women in employment, to promote employment for young people seeking their first job by means of an integrated technical and vocational guidance policy and to streamline the national insurance system, although the need for an over-all reform of the system was still under discussion.

45. Finally, to turn to matters covered by articles 1 to 5 of the Covenant, particularly articles 2 to 4, the entire report on articles 6 to 9 testified to the fact that Italy had complied with them within the limits of its available resources for the purpose of promoting the general welfare of Italian society.

46. Mr. LIBRANDO (Italy) said that a bill, which he trusted would soon become law, had been introduced in Parliament by the Italian Government in February 1981 on the status of foreign workers from outside the European Economic Community. As stated in the report, foreign workers who were nationals of countries members of the European Economic Community enjoyed the same rights and status as Italians. The purpose of the bill was to regulate the legal status of foreign workers and implement ILO Convention No. 143 of 1975 recently ratified by Italy by providing

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foreign workers with the same legal status as Italian and European Community workers as regards remuneration and social security benefits.

47. The influx of foreign workers would naturally have to be controlled on the basis of available employment opportunities through a system of authorizations to be issued by the competent Labour Office initially for a one-year period, with possibility of extension until definitive. The bill would outlaw all forms of intimidation of foreign workers and would allow spouses, children and, in special circumstances, parents to join the worker. It also provided penalties against employers for failure to comply with established remuneration levels or fulfil social security obligations.

48. Mr. Borchard (Federal Republic of Germany) took the Chair.

49. Mr. ALLAJI (Libyan Arab Jamahiriya), referring to the beginning of section A under article 6 (Right to Work) of the report (E/1978/8/Add.34), asked whether the fact that labour was considered not only as a right but as a duty meant that all Italian citizens were under an obligation to work and how far such an obligation was consistent with the high level of unemployment. He would also welcome clarification of the fourth and fifth paragraphs of section B (Measures to Achieve the Full Realization of the Right to Work), which stated that Italy's development policy was affected not only by structural factors but by a deterioration in the terms of trade with oil-producing countries. It would be interesting to know the exact impact of that factor and how far the statement made in the report reflected the reality.

50. Mr. AKAO (Japan) said that he was interested in the relationship between domestic law and international law, which presented a problem for most States. He would like to know whether the principle of the Italian Constitution, quoted in section C of the General Information chapter of the report, that the Italian legal system must conform to the generally recognized principles of international law implied that domestic laws had needed to be brought into line with those principles when Italy had acceded to the Covenant.

51. On the question of trade union rights, it was stated in section A of the chapter of the report dealing with article 8 of the Covenant that, under the "Worker's Statute", there was a compulsory ban on the establishment or support of "company" unions by employers. It was not clear whether this meant that an in-company workers' association not in fact supported by the employers would also be prohibited. Since there were many company unions of that kind in Japan which functioned very smoothly, he would be particularly interested in some further details as to the numbers and status of such organizations in Italy.

52. Mr. BOUFFANDEAU (France) referred to the paragraph on equal remuneration for equal work in section A of the chapter of the report relating to article 7. He commended the Italian Government for the action it had taken to correct the unjust discrimination against women which had prevailed in the 1960s, and particularly the adoption of Law No. 903 in 1977. He wondered what positive results of that law were now being observed in practice and whether the Government believed that it

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would be necessary to take further measures to remedy any remaining defects in the system.

53. Mr. MARDOVICH (Byelorussian Soviet Socialist Republic) said that the constitutional provision quoted in section A of the chapter of the report dealing with article 6, which recognized that all citizens had the right to work and made it the duty of the Republic to promote conditions making that right effective was inadequate as a reflection of article 6, paragraph 1, of the Covenant which established the right to work and obligated States parties to take appropriate steps to safeguard that right. Further, it was stated in the same section of the report that the constitutional provisions which affirmed the right to work were in the form of guidelines and did not guarantee each citizen the right to a job. Logically therefore, the Italian Constitution provided no effective safeguard of the right to work. At the same time, that fact seemed to conflict with the provision of the Italian legal system that the placement of workers in enterprises was a function exercised directly by the State. He wondered whether that system was being fully implemented and whether sufficient measures had been taken to ensure that the State fully discharged its obligations. He noted further from section B of the same chapter that unemployment among women was worse than in any other population group and that results in terms of the employment of young people had been very disappointing. He consequently wondered how much real meaning the right to work had for those population groups and what measures the Government had taken to assist them since its accession to the Covenant.

54. Lastly, in the brief analysis, in the same section of the report of economic development trends in Italy over the past 10 years, the deterioration in the terms of trade with the oil-producing countries was noted as the most serious factor. He felt that it was a generalization to say that that phenomenon had affected all the industrialized countries; the effects of the oil trade situation on particular countries had depended on the way in which their economies were organized.

55. Mr. ADOSSAMA (International Labour Organisation) said that he wished to present the comments of the ILO's Committee of Experts on Italy's position with regard to the various ILO Conventions.

56. With regard to the areas covered by article 6 of the Covenant, Italy had ratified the conventions relating to employment policy, vocational training, forced labour, and discrimination in employment. The Committee of Experts had made comments concerning the application of the Employment Policy Convention, seeking information on measures to promote employment and particularly, to combat unemployment among young workers.

57. Italy had ratified a considerable number of Conventions relating to articles 7, 8 and 9 of the Covenant. The ILO Committee of Experts had sought additional information on the implementation of equal pay legislation and called for various measures to improve occupational safety. In the field of social security, additional information had been considered necessary concerning the level of benefits and measures to ensure payment of the means-tested old age pension to nationals of other States bound by ILO Convention No. 118.

58. Mr. MALAFATOPOULOS (World Health Organization) welcomed the reference in section B of the chapter of the report relating to article 7 to the Presidential Decrees of 27 April 1955 and 19 March 1956, which contained the general regulations on the prevention of accidents. They were very important in the prevention of disabilities in general. He had also been gratified to read of the new responsibilities of the local health units for preventive activities.

59. He referred to the draft law establishing an educational and vocational guidance service which, according to the report, was aimed inter alia at those disabled as a result of accidents at work. Although that in itself was commendable, he was interested to know what services existed for those disabled as a result of diseases such as poliomyelitis, or for paraplegics, the blind or the deaf.

60. Miss CAO-PINNA (Italy), replying to the Libyan representative's request for clarification of the concept of labour as a duty as well as a right, said that, although there was nothing in domestic law which could force a citizen to work against his or her will, the Constitution established a moral obligation for a citizen to contribute by his or her labour to the development of society. At the same time, it committed the State to take all possible measures to ensure full employment. The report explained the difficulties which were hampering the Government in ensuring the right to work for all and gave the reasons for the existence of a high level of unemployment, a phenomenon which, in the present economic situation, was characteristic of most industrialized countries of the Western world. The Government was doing its utmost in its development policy progressively to reduce the rate of unemployment but she emphasized that, as the report indicated, those endeavours had been greatly undermined by structural factors, including the fact that a large part of the country was in the underdeveloped Mediterranean area, and by international trade imbalances. She did not feel that the Working Group was the appropriate forum for the discussion of terms of trade with the oil-producing countries; however, it was a fact that the dramatic price rises experienced in the 1970s had had radically damaging effects, for which there was abundant statistical evidence, on the economy of Italy and of many other oil-importing States.

61. She referred to the question of "company" unions raised by the representative of Japan. Within each enterprise or place of work the workers had the right to organize internal commissions with delegates elected to represent the interests of the workers in dealings with the employer. Such commissions were particularly common in large-scale businesses. At the same time, external trade unions would also be represented within the enterprise. In Italy all trade unions were autonomous; the only requirement placed on them by the Constitution was that they should be regulated in a democratic manner.

62. On the question of the relationship between international and domestic systems of law, also raised by the representative of Japan, she had already referred to the gaps in domestic legislation which her Government had recognized as needing to be filled in order to bring it into conformity with the Covenants. It was now felt, following careful examination, that there was no discrepancy between national law and the Covenants. Those small discrepancies which had been noted in relation to the more detailed ILO Conventions were being dealt with in consultation with ILO.

(Miss Cao-Pinna, Italy)

63. She felt that the representative of the Byelorussian Soviet Socialist Republic had misunderstood the force of article 4 of the Italian Constitution which established the duty for the Republic to promote conditions making the right to work effective, perhaps as a result of translation problems in the Russian version of the report. In any event, she would point out that article 6 of the Covenant was not prescriptive but offered guidelines, as did the corresponding articles of the Italian Constitution. She could not accept the Byelorussian representative's assertion that in Italy there was no effective safeguard of the right to work; that right was guaranteed to those already in employment, and the Government's economic development policy was endeavouring to reduce unemployment and thereby ensure the exercise of that right by those out of work. The Byelorussian representative had been wrong to question the existence of specific measures to combat unemployment; in the current economic climate, no country which based its figures on full-time, rather than part-time, employment was able to boast that unemployment did not exist.

64. She thanked the representatives of the World Health Organization and International Labour Organisation for their constructive comments. In answer to the question raised by the representative of WHO, she said that her Government was currently preparing its first report on social rights, a substantial part of which was dedicated to the details of the new health care system.

65. Mr. LIBRANDO (Italy) said that the representative of France had made a very fair point when he had raised the question of the practical effects of the various measures and pieces of legislation designed to reduce discrepancies in the remuneration and treatment of men and women in employment. Following ratification of the Covenant, that question had been one area in which the Government had introduced special new laws to implement the provisions of the Covenant. Other changes had been introduced as a result of the activities of the women's movement and Law No. 903, passed in 1977, had proclaimed the equality of men and women in employment.

66. In practice, however, it was necessary to make a distinction between industry and agriculture: workers in industry were much better organized and their trade unions and internal commissions were very active in combatting prejudice, whereas in agriculture there was a tendency to cling to the traditional system by which employers dealt directly with workers without reference to trade unions. As a result, discrimination persisted to a greater extent among agricultural workers.

67. However, apart from the legislation already mentioned, there existed a number of measures which benefited both men and women in the exercise of their rights. For example, the "labour proceedings" system made it possible for any worker suffering discrimination to assert his or her rights without incurring high costs. If application to a trade union or to the competent Labour Office failed to produce a solution to the problem, the grievance could be referred to a judge of the first instance by means of an oral deposition. The judge was then obliged to hold a hearing within 10 days, at which the defendant had to be present, and to reach a settlement following a maximum of two hearings. He therefore believed that the Government was doing everything possible to protect workers in general and especially women.

68. Mr. ALLAFI (Libyan Arab Jamahiriya) said that the reply of the representatives of Italy to his first question had been most satisfactory but that he remained concerned about his second point regarding the assertion in the report that the situation in Italy had been greatly affected by the deterioration in terms of trade with the oil-producing countries. He would appreciate some further details at a later stage.

The meeting rose at 2.00 p.m.

