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

SUMMARY RECORD OF THE 9th MEETING

Held at Headquarters, New York,
on Monday, 23 April 1984 at 10.30 a.m.

Chairman: Mr. BENDIX (Denmark)

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by States parties to the Covenant concerning rights covered by articles 6 to 9
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The meeting was called to order at 10.45 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 TO 9
(continued)

Report of Japan (E/1984/6/Add.6)

1. At the invitation of the Chairman, Mr. Kaneko and Mr. Nakamura (Japan) took places at the table.

2. Mr. NAKAMURA (Japan), introducing his country's initial report concerning rights covered by articles 6 to 9 of the Covenant, said that the Constitution guaranteed equality under the law, freedom to choose one's occupation, the right to work, trade union rights and the right to social security. Many laws and regulations had been enacted and were enforced to ensure the enjoyment of those rights, and any restrictions thereto must be strictly limited in scope and were acceptable only where the protection of public welfare rendered them necessary. His Government's report detailed the legal framework which guaranteed the human rights falling within the scope of the Covenant.

3. With regard to employment, he said that unemployment in Japan had risen from 1.2 per cent in 1965 to 2.6 per cent in 1983, a level that was far below that in many other Member States. With regard to general working conditions such as wages, he said that the Labour Standards Law and other laws and regulations ensured minimum standards of work. Working conditions more favourable than minimum standards had been attained through collective bargaining at the enterprise level. For example, the worker's average monthly cash earnings had risen from \$109 in 1965 to \$1,252 in 1983, and real wages had risen 120 per cent during the same period.

4. Trade unions, played an important role in the economic, social and political life of Japan. Most unions were organized on an enterprise basis and many were members of industrial federations, which in turn were affiliated with national organizations. Trade unions generally had strong bargaining power vis-à-vis management in all matters relating to working conditions.

5. The social-security system of Japan, the development of which had come to a standstill during the Second World War, had subsequently grown steadily, reflecting the nation's economic and social development. Following ratification of the Covenant, social-security schemes now applied to all foreign residents in Japan, whereas they had previously been restricted to Japanese nationals. The number of Japan's inhabitants who were 65 years of age or older had accounted for 9.6 per cent of the population in 1982 and was expected to rise to 18.8 per cent by the year 2010. Against that background of a rapidly aging population, the Government had established a new system of Health and Medical Services for the Elderly in 1983. Social-security expenditure would inevitably increase as well, while the increase in national income had slowed down, reflecting slower economic growth. The national budget had had to rely on public bonds to make up for the deficit. In those circumstances, it was necessary to develop a system that would maintain an appropriate balance between benefits and cost.

(Mr. Nakamura, Japan)

6. With a view to improving the status of women, a high-level government body had been established to formulate a national plan of action and priority targets and to promote activities at the governmental and non-governmental levels. The Government was completing work on a bill guaranteeing equality of opportunity for women at work for submission to the Diet. That was considered a necessary step for the ratification of the Convention on the Elimination of All Forms of Discrimination against Women, which the Government planned to ratify by the end of 1985.

7. In conclusion, he said that, since Japan had ratified the human rights Covenants in 1979, it had registered substantial achievements in enhancing the enjoyment of the rights recognized therein.

8. Mr. YAKOVLEV (Union of Soviet Socialist Republics) said that the report of Japan and the statement by the representative of Japan showed that that country was making serious efforts to implement the Covenant and to mitigate the economic and social consequences of the world economic crisis. He was pleased that the rate of unemployment in Japan was very low compared with that in other countries with a similar economic system. He wondered what measures were being taken by Japan to combat unemployment, as that country's experience might be useful to other nations.

9. Mr. SURIDOV (Union of Soviet Socialist Republics), referring to paragraph 27 (a) (iii) of the report, asked what the mandatory retirement age was and wished to know whether a worker must automatically retire at that age or whether he could continue working in certain circumstances.

10. Mr. KORDS (German Democratic Republic) said that the report of Japan (E/1984/6/Add.6) conformed in large measure to the Working Group's expectations and showed that the Japanese Government was doing its utmost to ensure the implementation of articles 6 to 9 of the Covenant. Concerning vocational guidance, all industrial nations could benefit from having offices of the type described in paragraph 21 of the report, and such agencies should stress the importance of sound scientific training at an early age. He wished to know whether the Public Employment Security Offices were also active in the schools, and what their duties were. He also inquired what was done by enterprises to promote high levels of scientific achievement at all educational levels.

11. Lastly, he wished to know what efforts were made by trade unions to overcome unemployment and achieve the goal of full employment cited in paragraph 12.

12. Mr. TEXIER (France) said that the report under consideration contained a balanced presentation of the legislative texts adopted to implement articles 6 to 9 of the Covenant and objective statistics and explanations of the manner in which those instruments were implemented. The statement by the Japanese representative had provided additional useful information.

13. Referring to paragraphs 11 and 27 of the report, he wished to know whether, in a period of economic crisis and unemployment, the trend towards raising the mandatory retirement age did not run counter to efforts to reduce unemployment. He also wished to know what the average minimum wage was, in the light of paragraph 38 of the report. With regard to safe and healthy working conditions, he wished to

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(Mr. Texier, France)

know whether any sanctions, particularly penal sanctions, existed to punish the non-observance of safety measures. He had been very impressed by the results of Japan's efforts to combat accidents at work.

14. With regard to table 5, concerning the distribution of workers, by working week, he wished to know how long the work week was for persons to whom the partial five-day working week applied. Noting also that Japan, when ratifying the Covenant, had reserved the right not to be bound by article 7 (d) of the Covenant, providing for remuneration for public holidays, he wished to know what the current situation was. As to the right to strike, it appeared from the report that that right was very limited in so far as it applied to public employees.

15. With regard to social security, he wished to know why contributions to the Employees' Pension Insurance Scheme were different for men and women. He had read with considerable interest the information provided concerning the possibility of spreading the retirement period between the ages of 60 to 70.

16. Mrs. JIMENEZ BUTRAGUENO (Spain) inquired whether retired persons were permitted to work at all. Furthermore, she considered it strange that, if efforts were being made to reduce unemployment, that thought was given to raising the mandatory retirement age. She wished to know whether unemployment was a major problem among young people in Japan.

17. She would appreciate an explanation of how freedom of choice of an occupation could "interfere with the public welfare" (para. 8). With regard to paragraph 10, she could not understand how "previous employment" could be considered an obstacle to employment. The social-security arrangements outlined in paragraph 104 indicated that provision was made for a widow's supplement, and she wondered whether a widower's supplement was also provided. She would appreciate further statistics concerning youth and employment, including the number of young people working in different sectors.

18. Mr. HAMIDA (Tunisia) said that the report of Japan was of high quality and provided very useful information. Noting that one law sought to promote the employment of physically handicapped persons, he wished to know what impact the employment of such persons had on the Japanese economy.

19. The CHAIRMAN, speaking as the expert from Denmark, said that the report of Japan (E/1984/6/Add.6) contained a balanced description of the relevant legislation and the implementation thereof, and presented useful statistics. In the light of the efforts undertaken to protect against unemployment, and in view of the statement by the representative of Japan regarding the anticipated increase in the number of elderly in the population by the year 2010, he wondered whether the projected birth rate for that year could be given.

20. With regard to vocational training, he would appreciate additional information concerning the Third Basic Vocational Training Plan for the fiscal period 1981-1985 and the Fifth Basic Employment Measures Plan for the fiscal period 1983-1990. He would also like to know the duration of the period of maternity leave mentioned in paragraph 25 (b). He inquired whether the interregional mobility mentioned in

(The Chairman)

paragraph 27 (b) (iv) was accomplished by providing housing or travel allowances directly to employees, or whether special subsidies or allowances were paid to employers. With regard to paragraph 44, he wished to know what the current situation was concerning efforts to ensure equal pay for equal work as between men and women. With regard to tables 6 and 7, he wished to know the actual number of persons working more than eight hours per day or more than 48 hours per week and in what sectors those persons worked.

21. With respect to the right to strike, he wished to know whether the National Public Service Law, referred to in paragraph 78, affected all public employees. Concerning old-age benefits and the national pension referred to in paragraphs 104 and 107, he wondered whether women retiring at age 55 received the same benefits as men retiring at age 65. Finally, he commended the representatives of Japan for that Government's report and looked forward to their replies to the questions asked.

22. Mr. Kaneko and Mr. Nakamura (Japan) withdrew.

Report of the Union of Soviet Socialist Republics (E/1984/7/Add.7)

23. At the invitation of the Chairman, Mr. Aslan'yan (Union of Soviet Socialist Republics) took a place at the table.

24. Mr. ASLAN'YAN (Union of Soviet Socialist Republics) said that, in accordance with the strategy defined in 1981 at the Twenty-sixth Congress of the Communist Party of the Soviet Union, steady economic growth had been achieved, efforts were being made to increase the production of consumer articles, the population's standard of living had been improved and the participation of workers in the management of the society had been expanded. Minimum pensions had been raised and increased pension benefits and supplementary holidays, based on length of uninterrupted service instituted. Working mothers had been given the right to partially-paid leave until their children were a year old and the allowances paid on the birth of a child had been increased. Additional benefits had been introduced for veterans and invalids of the Great Patriotic War. Schoolchildren had been provided with textbooks free of charge and nearly 50 million people had received new apartments over the past five years. A graduated increase of 30 to 35 per cent in the salaries of 6 million teachers was planned for 1984.

25. Since the first report had been submitted, a number of new laws based on the 1977 Constitution had been adopted and existing legislation amended to bring it into line with the Constitution. Constitutional guarantees of a whole range of economic and social rights went hand in hand with practical measures to ensure that those rights were implemented. The amount of a country's income allocated for economic and social goals had a strong effect on the enjoyment of economic and social rights; in the Soviet Union, four fifths of the national income went to improving the people's well-being.

26. The extensive rights laid down for work collectives under the law of 1983 were reinforced in practice by the fact that a significant portion of the income of enterprises and organizations was paid to the work collectives themselves. Since

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(Mr. Aslan'yan, USSR)

many democratic rights were now guaranteed by the work collectives, their role must be seen in a new light. Collectives sought both to increase production for the purpose of generating funds and to ensure the equitable distribution of those funds with a view to meeting the immediate needs of their members; the funds they received thus made it possible to reconcile the interests of society as a whole with those of each individual worker.

27. Referring to article 6 of the Covenant, he said that the new Constitution guaranteed not only payment based on the quantity and quality of one's work, but also the selection of a profession in accordance with one's inclinations, abilities, education and training and in keeping with the needs of society. The right to work as defined in the 1977 Constitution required a qualitative balance to be struck between available jobs and labour resources with a view to ensuring the constant expansion of job opportunities. Under a reform instituted in April 1984 and to be phased in over the next few years, secondary-school education would be supplemented by vocational training so that young people could specialize even before they entered the work force.

28. The right to work was also ensured through special material and legislative guarantees for young people, pregnant women, invalids and elderly workers. For example, the privileges that must be accorded to young workers tended to inhibit enterprises from hiring people under 18 years of age; that was why article 80 of the Fundamental Principles Governing the Labour Legislation of the USSR and the Union Republics established a special quota of 10 per cent of the total work force of a given industrial branch for jobs for individuals aged 16 to 18 years. Similarly, article 73 of the Fundamental Principles imposed a prohibition on refusal to hire, reduction of the salary of, or dismissal of women on the grounds that they were pregnant, breast-feeding or had small children.

29. Employees had the right to retire upon reaching pension age but could not be refused a job or dismissed for having reached that age. Special measures were used to keep pensioners working; often they continued to receive their full salary as well as their pension. Over 9 million retired persons (34 per cent of the total) were currently employed. Soviet legislation also ensured that invalids were hired and, if their doctors so recommended, allowed to work for less than the full day and given other advantageous working conditions.

30. In connection with article 7 of the Covenant, he said that the country's wage system precluded any form of discrimination or arbitrariness and ensured that each worker was paid in strict conformity with his qualifications, education and training. The State-guaranteed minimum wage, which was the fixed portion of a worker's emoluments, was supplemented by various forms of bonuses paid out in proportion to the productive labour of each individual. The work co-operative, on which the report focused, played an important role in ascertaining the contribution made by each individual and, accordingly, the payment he would receive for it.

31. Job opportunities could not ensure full social justice: they had to be supplemented by assistance to the non-able-bodied portion of the population, and that was the purpose of the social consumption funds. The payments and privileges made available through them were intended primarily for the lowest-income earners

(Mr. Aslan'yan, USSR)

in order to achieve a more equitable economic distribution among the various levels of the population.

32. Ministries and departments had co-operated with the trade unions to formulate and carry out a programme for the improvement of working conditions and safety standards which had to date affected 10 million people. A programme was also under way to reduce reliance on heavy physical and manual labour, and plans were afoot to cut down gradually on dangerous and monotonous work.

33. The first report had gone into great detail about trade unions and had clearly explained their position in society and their role in defending the interests and rights of workers. Virtually no problems connected with labour, the society or daily life were resolved without the trade unions. High-level economic bodies were required by law to take the views of trade unions into account when appointing leaders of enterprises and organizations. Trade unions had the right to urge high-level bodies to take disciplinary action against, and even to dismiss, officials who violated the labour laws, security standards and agreements with the collectives. Trade unions also had, and often exercised, the right to propose that enterprises and shops should be shut down if they were not meeting safety standards. In 1982, as a result of trade union complaints, the work of 180 enterprises and 3,000 shops had been stopped and nearly 10,000 officials at various levels had been relieved of their duties.

34. Many other measures currently being implemented in all fields would facilitate continued progress in guaranteeing the economic and social rights of Soviet citizens.

35. Mr. KORDS (German Democratic Republic) said that the Soviet Union's report (E/1984/7/Add.7) reflected its willingness to implement the Covenant and showed how the industrious work of the collectives had contributed to the country's economic achievements. The centrepiece of the measures taken since the initial report had been submitted was the Law on Work Collectives, which reflected the new role of workers and their participation in the democratic process of the management of society. That Law closely conformed to, and indeed went beyond the obligations imposed by, the Covenant, and a copy should be made available to the Working Group.

36. One thing the report did not cover was how the Law dealt with socialist competition, which was one of the fundamental elements of the Leninist ideas concerning the further strengthening of collectivism. Paragraph 12 referred to the comrades' courts and other public bodies operating in work collectives, and he asked how they fit into the system of work collectives, what their duties were and how their membership was elected.

37. He requested clarification concerning the various funds mentioned in paragraph 32 and their functions within the system of work collectives, and statistics on the amounts which workers were able to draw from them. He asked who determined the amount of the bonuses mentioned in paragraph 29 and how the funds were distributed - to individuals directly, or to work collectives, which then chose recipients. Clarification of the phrase "leading workers" in paragraph 34 would also be appreciated.

38. Mrs. JIMENEZ BUTRAGUEÑO (Spain) said that she would appreciate receiving a copy of the Law on Work Co-operatives but thought that the report did not give adequate information on the extent of the changes in labour relations which had resulted from its adoption: for example, statistics on the evolution of salary levels and consumer prices would have been useful. Referring to paragraph 59, she asked whether the existing State establishments for the elderly and disabled and children's institutions were adequate to cover the demand. She requested more information about the working hours of retired and disabled persons and the types of job in which they were employed.

39. Mr. TEXIER (France) said he endorsed the request for a copy of the Law on Work Collectives. He, too, had found the report to be somewhat unsatisfactory, as it failed to give a clear picture of progress made since the initial report had been submitted. Statistics which could corroborate the affirmations in the report that the Covenant was being implemented had not been included. For example, comparative figures on the minimum salary, average salary and highest salary in 1978 and 1984, which might support the claim (para. 2) that the living standards of the Soviet people had been improved, were missing.

40. He requested clarification of "the further strengthening of collectivism" (para. 7). Paragraph 9 proclaimed that in the work collectives, the unity of State, social and personal interests was guaranteed, but did not explain how that was accomplished. Paragraph 12 listed the ability to recall people's assessors of district people's courts as one of the broad powers given to work collectives, but did not describe how it was exercised. The new formulation of article 2 of the Fundamental Principles set out in paragraph 14 referred to a "State-established minimum" for wages; he requested clarification of that term.

41. Paragraph 19 contained the statement that "unemployment in the USSR had been eliminated in the 1930s". Did that mean that the world economic crisis had not affected the country at all, that everyone had a job and could change jobs if he so desired, and that there was no hunger or poverty?

42. He would appreciate more information on the measures referred to in paragraph 25 designed to increase the remuneration of labour and the real income of working people. Although paragraph 26 asserted that real per-capita income had doubled in comparison with 1965, the 1965 level was not indicated, and that made it very difficult to evaluate the results of the measures being described. Nor was any indication given as to whether progress had been made since 1978 in regulating the working and leisure hours of manual and non-manual workers (para. 38).

43. It was noteworthy that the section on trade-union rights was the shortest in the entire report, and that the right to strike was passed over in silence. He would appreciate information as to whether the right to strike was provided for under Soviet legislation, whether it was exercised, and if so, whether progress had been made since 1978 in that connection. Although the unity mentioned in paragraph 51 was fundamental to the success of any trade-union movement, pluralism was also necessary. He therefore asked whether workers were represented by trade unions which expressed a wide range of views, as in many countries, including his own.

(Mr. Texier, France)

44. Referring to paragraph 52, he asked whether medical care was entirely free under the social-security system. He requested statistics which might support the statements that the size of the special allowances paid on the birth of a child had significantly increased in the period 1981-1983 (para. 57) and that there had been an increase in the minimum pensions for disability, old age and loss of the breadwinner (para. 58).

45. Mr. IIYAMA (Japan) said that he had not seen the initial report of the Soviet Union (E/1978/8/Add.16); however, he believed that the second report (E/1984/7/Add.7) had on the whole provided adequate information on the new legislative measures taken since the submission of the former report.

46. With respect to the right to work, he wished to know what protection had been provided for workers dismissed through no fault of their own and what the situation would be if they could find no employment after having exhausted the severance pay of two weeks' average earnings referred to in paragraph 19.

47. With respect to trade-union rights, he wondered what the relationship was between the work collectives and the trade unions with regard to the protection of workers' interest. In that connection he, too, would like to receive a copy of the Law on Work Collectives.

48. Mr. MITREV (Bulgaria) said that, when a country was presenting its second report, the Secretariat should endeavour to ensure that members of the Working Group were provided with copies of the initial report and the summary records of the meetings in which it had been considered.

49. The report of the Soviet Union (E/1984/7/Add.7) clearly showed the development of economic and social rights and the measures taken to implement the Covenant in that country since the consideration of the initial report in 1980. Those measures could serve as an example for the guarantee of the enjoyment of such rights elsewhere. The exercise of those rights was not automatic and, even in socialist States, measures had to be taken for the implementation of the Covenant. In that connection, the USSR Law on Work Collectives was one of the most complete formulations that he had seen anywhere for the enjoyment of the rights set forth in the Covenant.

50. With respect to article 7 of the Covenant, the report stated that the laws provided for additional privileges for persons working in Siberia and other areas with unfavourable climatic conditions. He wished to know whether those benefits were granted only to people who had moved to those areas or whether they applied equally to local residents. In addition, he would like to see more data on the benefits referred to in paragraph 37.

51. Paragraph 43 referred to measures to strengthen State assistance to families with children and, in that connection, he wondered whether mothers had the right to retain their jobs after the first year following the birth of a child.

52. With respect to article 9 of the Covenant, the report showed that the Soviet Union had taken several measures to develop social security since the consideration

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(Mr. Mitrev, Bulgaria)

of its initial report. In that connection, he would like to know the level of the pensions referred to in paragraph 58 and how those pensions were determined.

53. Finally, he commended the Soviet Union for its report, which could serve as an example for other countries in preparing their second report.

54. The CHAIRMAN said that, when the second reports of countries were being considered, the Secretariat would attempt to provide members of the Working Group with copies of the initial reports and the summary records of the meetings in which those reports had been considered.

55. Speaking as the expert from Denmark, he noted that the recommendations in the guidelines set forth in document E/1984/7 seemed to have been forgotten. In general, however, the report seemed to indicate that many improvements had been made in the Soviet Union since the consideration of the initial report. In that connection, however, he wished that there had been more statistics and an indication of the points of departure so that proper comparisons could be made.

56. With respect to article 6 of the Covenant, paragraph 14 of the report stated that the right to choose a trade or profession was ensured by the socialist economic system. He wondered whether that meant that an individual could take up a job anywhere in the country within his or her trade or whether people had to settle in one place. For example, the report stated that special allowances were given to people working in areas with unfavourable climatic conditions (para. 36), and he wondered whether that meant that people could move to those areas to receive such allowances.

57. With respect to the grounds for dismissal referred to in paragraph 16 (c), he wondered whether the provision in question meant that someone could be punished a second time simply because that person had been penalized earlier. In that connection, he did not see how the condition in paragraph 16 (f) could be regarded as grounds for dismissal.

58. Paragraph 19 stated that unemployment had been eliminated in the Soviet Union in the 1930s and that there was always a need for workers. It further stated that, because of the absence of unemployment, there were no unemployment benefits. He wondered what individuals had to do in order to obtain jobs and what measures were taken in that regard to protect the interests of ethnic minorities.

59. Paragraph 27 stated that payments and privileges from social consumption funds came largely from the State budget and he wished to know how those benefits were paid, whether there was any eligibility criteria for them and who actually took decisions in that field. The report also mentioned increases in salaries but gave no figures on increases in the cost of living.

60. He also wished to know whether there was any possibility for workers to have a day off in case of illness of a child without loss of pay, as in Denmark. He understood that there was absenteeism in the Soviet Union and he wondered whether the pay of all workers was docked regardless of the reason for such absenteeism.

(The Chairman)

61. He also wished to have more information on trade-union rights and whether it was possible to organize trade unions outside the movement referred to in paragraph 51.

62. Finally, with respect to article 9, he would like more information about the eligibility for access to the children's and pre-school institutions referred to in paragraph 59.

The meeting rose at 1.20 p.m.