



Economic and Social Council

Distr.
GENERAL

E/1982/WG.1/SR.1
8 April 1982

ORIGINAL: ENGLISH

First regular session, 1982

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

SUMMARY RECORD OF THE 1st MEETING

Held at Headquarters, New York,
on Monday, 5 April 1982, at 10 a.m.

Temporary Chairman: Mr. VELLOSO (Brazil)

Chairman: Mr. BURWIN (Libyan Arab Jamahiriya)

CONTENTS

Election of officers

Organization of work

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

This record is subject to correction.

Corrections should be submitted in one of the working languages, preferably in
the same language as the text to which they refer. They should be set forth in a
memorandum and also, if possible, incorporated in a copy of the record. They
should be sent within one week of the date of this document to the Chief, Official
Records Editing Section, Department of Conference Services, room A-3550, 866 United
Nations Plaza.

Any corrections to the records of the meetings of this session will be
consolidated in a single corrigendum to be issued shortly after the end of the
session.

The meeting was called to order at 10.20 a.m.

ELECTION OF OFFICERS

1. The TEMPORARY CHAIRMAN said that he understood from informal consultations that the Working Group wished to elect Mr. Awad Burwin of the Libyan Arab Jamahiriya as Chairman.
2. Mr. Burwin (Libyan Arab Jamahiriya) was elected Chairman by acclamation.
3. Mr. Burwin (Libyan Arab Jamahiriya) took the Chair.
4. The CHAIRMAN observed that any country which believed in the United Nations must participate actively in achieving the goals set forth in the Charter. One such goal was the promotion of higher standards of living, full employment, and conditions of economic and social progress and development (Article 55 (a)) and while the United Nations so far had failed to resolve some political problems, progress had been made in the social sphere. International problems arose from differences in the standard of living of citizens within the same country and lack of respect and arrogance among countries. In order to eradicate such problems, the United Nations must strive to remove their causes - a mission which the Economic and Social Council strove to fulfil.
5. Since consultations were still proceeding on the nomination of the Vice-Chairmen and the Rapporteur, he suggested that the election of those officers should be postponed.
6. It was so decided.

ORGANIZATION OF WORK (E/1982/WG.1 1)

7. Mr. AGBASI (Secretary of the Working Group) announced that, since the draft programme of work for the current session (E/1982/WG.1/L.1) had been issued, Syria, Libya and the German Democratic Republic had requested that consideration of their reports be postponed until a later session. If there were no objections, the draft programme of work would have to be amended accordingly. The reports of the Soviet Union and Sweden, which had been scheduled for consideration on 9 April, would have to be rescheduled since that day had now been declared an official holiday. Finally, the United Kingdom had recently submitted a report which was to be issued in document E/1982/3/Add.16 for consideration at the current session.
8. The CHAIRMAN suggested that the report of the Soviet Union should be considered on 13 April, in place of the report from Libya, while the report of Sweden and the further report from the United Kingdom should be considered on 20 April, in place of the report of the German Democratic Republic.
9. It was so decided.

/...

10. The CHAIRMAN noted that the Working Group had a very heavy programme of work for the current session and urged that it strive to adhere very closely to that programme.

11. Mr. SOFINSKY (Union of Soviet Socialist Republics) observed that, in accordance with decisions taken at the Working Group's 1981 session, the agenda for the current session should comprise not only the consideration of reports submitted by States parties but also the review of the composition, organization and administrative arrangements of the Working Group.

12. Mr. AGBASI (Secretary of the Working Group) recalled that, at its 1981 session, the Working Group had made recommendations on the future review of such arrangements as part of its report to the Economic and Social Council. At its 19th plenary meeting held on 8 May 1981, the Council had considered the Group's report and recommendations and had decided, by decision 1981/162, to review such arrangements at its first regular session of 1982. The question would thus be discussed in the plenary of the Council and not in the Working Group, but towards the end of the Council's session so that members of the Working Group might participate in the debate.

13. Mr. SOFINSKY (Union of Soviet Socialist Republics) said that he did not interpret the decisions taken by the Working Group and the Council at their 1981 sessions in the manner indicated by the Secretary. As he recalled, the Working Group had adopted a decision drafted by the representative of the Netherlands which provided for the Working Group to consider the item further in 1982 and make recommendations thereon to the Council. A paragraph which would have recommended that the issue be included as a separate subitem on the agenda of the Council's first regular session of 1982 had been deleted from that decision, making it clear that the Working Group must discuss the item first. Half of the members of the Council were not States parties to the Covenant and the correct forum for consideration of the item was therefore the Working Group.

14. Mr. AGBASI (Secretary of the Working Group) recalled that it was on the basis of the Working Group's recommendations that the Council had adopted a number of decisions on the issue at its 1981 session. Those included decision 1981/158 on the review of the composition, organization and administrative arrangements of the Group, which had dealt with the issue in some considerable detail, decision 1981/162 to which he had just alluded, which provided for further consideration of the item at the Council's first regular session of 1982 and decision 1981/160 approving the Working Group's agenda for the 1982 session. At no time had it taken a decision which provided for the Working Group to take up the issue again and if the Working Group did indeed want to pursue the issue at the current session, it must seek the approval of the President of the Council.

15. Mr. SOFINSKY (Union of Soviet Socialist Republics) observed that the Council had approved only the Working Group's provisional agenda for 1982. The draft decision proposed subsequently by the Netherlands had made additions to the agenda, including the addition of an item on the future review of the composition,

(Mr. Sofinsky, USSR)

organization and administrative arrangements of the Working Group. Those additions had not appeared in the agenda given in the Group's report to the Council as the latter had already been adopted. Since the Council had agreed that it must give the item further consideration, the Working Group should consider it first and make recommendations to the Council. It could do so at the end of the current session, once it had completed its consideration of reports submitted by States parties.

16. Mr. BERGTHUN (Norway) said that he endorsed the interpretation of the Council's decisions given by the Secretary. He suggested therefore that the Working Group should approach the Bureau of the Council for its interpretation of the Council's decisions. After all, if the Working Group was to discuss the issue raised by the Soviet representative, it would take more than two or three days at the end of the current session to do so.

17. Mr. BOUFFANDEAU (France) endorsed the suggestion made by the representative of Norway. The Working Group had plenty of time in which to take a decision and should not do so hastily.

18. Mr. SOFINSKY (Union of Soviet Socialist Republics), referring to the remarks made by the representative of Norway, observed that it would take the Council far longer to consider the item than it would the Working Group and that the Council's task would be facilitated if it had the benefit of recommendations from the Working Group. The Norwegian proposal had been a compromise solution, but the Council's decision to include the issue as a separate item in the agenda of its first regular session of 1982 had also been a compromise solution.

19. Mr. BORCHARD (Federal Republic of Germany) said that he could not endorse the Soviet representative's interpretation of the decisions taken by the Council in 1981. It was his clear recollection that most members of the Council had not been satisfied with the Working Group's recommendations and had decided to take the issue up at the Council's first regular session of 1982 without giving the Working Group a mandate to consider the issue first at its 1982 session.

20. Mr. ALLAFI (Libyan Arab Jamahiriya) suggested that, in order not to waste any more time, the Working Group should hold informal consultations on the subject and postpone the adoption of the agenda until the following day.

21. Mr. MARDOVICH (Byelorussian Soviet Socialist Republic) observed that the Working Group must resolve the present issue with extreme care. The Working Group had a responsibility to strive to improve the organization of its work in the light of the experience gained at each successive session and could not therefore overlook such a fundamental issue. A decision must be taken to include the issue on the agenda; otherwise, the Council would be deprived of the Working Group's authoritative opinion on the subject. He could not agree that the Working Group should not discuss the issue because it had received no mandate from the Council. It had not sought such a mandate and was master of its own procedures and activities.

/...

22. Mr. SOFINSKY (Union of Soviet Socialist Republics) said that, in order not to prolong the debate any further, he would withdraw his proposal for the time being and endorse the Libyan proposal that the adoption of the agenda should be left pending until informal consultations had taken place.

23. Mrs. DE ARANA (Peru) observed that, in the absence of any real agreement within the Working Group as to how to proceed and in view of the Secretary's observation that the Working Group had already made recommendations to the Council in 1981, the best course would be to refer the matter to the Bureau of the Council for an interpretation of the Council's wishes.

24. The CHAIRMAN suggested that the Working Group should postpone consideration of the issue pending further clarification and proceed instead to the consideration of reports submitted by States parties.

25. It was so decided.

26. Mr. SOFINSKY (Union of Soviet Socialist Republics) asked the Chairman to clarify what he had meant by the words "pending further clarification". It was his understanding that the Working Group had simply decided to hold informal consultations on the inclusion of the issue in question in its agenda.

27. The CHAIRMAN explained that the Working Group had simply decided to postpone consideration of the issue and had not taken a decision on whether to add the item to its agenda or to hold informal consultations to that end. Further clarification was needed which might be forthcoming from informal consultations within the Working Group but must also be sought from the Bureau of the Council and perhaps the Legal Counsel.

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

Report of the United Kingdom of Great Britain and Northern Ireland (E/1978/8/Add.30)

28. At the invitation of the Chairman, Mr. Fursland (Observer for the United Kingdom of Great Britain and Northern Ireland) took a place at the Committee table.

29. Mr. FURSLAND (Observer for the United Kingdom), introducing part III of his Government's report concerning rights covered by articles 6 to 9 of the Covenant, said that it related to the Channel Islands and the Isle of Man and supplemented document E/1978/8/Add.9 regarding the United Kingdom and non-metropolitan territories which had been considered by the Working Group in 1980. His Government would be presenting its report under articles 13 to 15 of the Covenant for the United Kingdom, the Channel Islands, the Isle of Man and the dependent territories later in the session, thereby demonstrating the importance it attached to the implementation of the Covenant and in particular to the activities of the Working Group.

(Mr. Fursland, Observer, United Kingdom)

30. Although legislative and other provisions in the Channel Islands and the Isle of Man were broadly similar to those in the United Kingdom, constitutionally those territories were not part of the United Kingdom but were dependencies of the Crown with their own legislatures, courts of law and administrative and fiscal systems. They had therefore produced their own report on the Covenant despite the limited bureaucratic resources available in islands so small in area and population and any questions regarding the report would thus be passed on to the appropriate authorities.

31. Mr. SOFINSKY (Union of Soviet Socialist Republics) said that he would welcome more information, given the high level of unemployment in the United Kingdom, on the grounds for the statement made in the report as to the low level of unemployment, as well as on the reasons for the lack of any unemployment benefits in Jersey.

32. Mr. FURSLAND (Observer for the United Kingdom) said that as he did not have sufficient statistics at his disposal on those two points he would pass on the question to the authorities of the Island of Jersey and convey their reply in due course to the representative of the Soviet Union.

33. The CHAIRMAN asked for clarification on the residential qualifications required for access to employment referred to in article 6A, paragraph B (1) of the report.

34. Mr. FURSLAND (Observer for the United Kingdom) said that on account of housing restrictions on Jersey, some employers tended to give preference to job applicants who were resident on the Island and therefore naturally had less difficulty in taking up employment than non-residents.

35. The CHAIRMAN said that, if he heard no objection, he took it that the Working Group had concluded its consideration of the report of the United Kingdom (E/1978/8/Add.30) submitted in accordance with Council resolution 1988 (LX) by States parties to the Covenant concerning rights covered by articles 6-9.

36. It was so decided.

Report of Canada (E/1978/8/Add.32)

37. At the invitation of the Chairman, Mr. Morden (Observer for Canada) took a place at the table.

38. Mr. MORDEN (Observer for Canada) said that his Government's regular submission of reports to various United Nations bodies, and particularly the consideration of its report on the implementation of the International Covenant on Civil and Political Rights by the Human Rights Committee in Geneva in March 1980, had served to bring into sharper focus the close scrutiny devoted to the implementation of both Covenants under Canada's constitutional system, i.e. that of a federal State comprising 10 provinces and two territories with powers being exercised by the

(Mr. Morden, Observer, Canada)

federal, provincial and territorial governments and requiring a complex process of consultation.

39. Canada had acceded to the two Covenants and the Optional Protocol on 19 May 1976 with the agreement of all the provinces. At a Federal-Provincial Conference on Human Rights held in December 1975, the federal and provincial governments had agreed on implementation procedures and mechanisms and set up a Continuing Federal-Provincial Committee of Officials Responsible for Human Rights, which met twice a year to study specific implementation questions and which had proved to be an effective instrument of liaison between the federal and provincial governments. An Interdepartmental Committee on Human Rights had been established in 1975 within the federal government and several official provincial bodies had also been constituted to examine questions regarding the implementation of the Covenants. Although the broad scope of the International Covenant on Economic, Social and Cultural Rights combined with Canada's desire to obtain comprehensive information from each of its 13 constituent jurisdictions had sometimes prevented it from meeting the time-limits set by the Council for the submission of reports, the joint involvement of the federal, provincial and territorial governments in a constant effort to meet and maintain standards for the protection of human rights had led to legislative innovations which at times more than met the aspirations embodied in the Covenant.

40. While all jurisdictions in Canada subscribed to the principles set forth in articles 1 to 5 of the Covenant, one of the most important broad developments with a bearing on the four articles dealt with in the report was the Canadian Charter of Rights and Freedoms recently developed through co-operation between all levels of government which codified and extended existing rights and enshrined new rights in the Constitution. It applied in all jurisdictions and guaranteed freedom of conscience and religion, freedom of thought, belief, opinion and expression, including freedom of the press and other communication media, freedom of peaceful assembly and freedom of association. It also contained provisions for the protection of the freedom of individuals to choose their own residence, language and legal rights including the "right to life, liberty and security of person, and the right not to be deprived thereof except in accordance with the principles of fundamental justice" and guaranteed that "every individual is equal before and under the law and has equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental and physical disability". Specific anti-discrimination statutes had also been enacted in all provinces and at the federal level to ensure equality and to prohibit discrimination in employment, accommodation and facilities, as well as in the provision of goods and services. Independent Human Rights Commissions were empowered to carry out investigations, attempt conciliation and if necessary establish tribunals and provided effective remedies such as reinstatement in employment, damages, compensation for loss of earnings, the defrayment of all associated expenses and in some cases the launching of affirmative action programmes. Furthermore, all provinces but one had established ombudsmen empowered to investigate, any legislative provision notwithstanding, the decisions or recommendations or acts performed or omitted by.

/...

(Mr. Morden, Observer, Canada)

any government organization affecting any individual in his or her personal capacity. A full report on the matter was to be included in a forthcoming edition of the United Nations Yearbook on Human Rights.

41. With reference to article 6 of the Covenant, he emphasized that all of his country's jurisdictions recognized everybody's right to work that was freely chosen or accepted and their freedom to seek employment that was suited to their capabilities, education, training and expectations. His country had a continuing high level of unemployment but employment was also increasing. The apparent contradiction was a result of the rapid growth of the labour force; young people, women, native people and disabled persons had been particularly hard-hit by unemployment. Governments at all levels had responded in numerous ways, including direct job creation, special counselling, training programmes, special projects for disadvantaged groups, tax incentives to the private sector, mobility grants and community development projects, to name but a few. The problem remained an urgent priority for all concerned.

42. The right of an employer to dismiss an employee had been curtailed by special provisions in labour legislation, by collective agreements and by court decisions. Regulations covering dismissal in collective agreements aimed to restrict the power of managements in that respect to situations where just cause could be proven. Where labour and management disagreed on the fairness of a dismissal, there was a guaranteed right to a final decision through arbitration by a neutral third party. A body of arbitral jurisprudence on dismissal had developed over the years and most arbitrators generally adhered to established precedents.

43. With reference to article 7 of the Covenant, minimum acceptable employment standards had been established in every jurisdiction. Minimum wages which varied from one jurisdiction to another were decided by consideration of many factors such as the consumer price index, the level of hourly earnings in an industry generally, the level of social welfare benefits available and the potential economic impact of the minimum wage. All provinces had legislation providing for equal pay for equal work and Quebec and the Federal Government had legislated for equal pay for work of equal value.

44. Similarly, all jurisdictions had legislated on occupational health and safety and, in some, mandatory health and safety committees involving the workers had been established. A government inspection system ensured compliance and there was legislation on the duties of employers and workers. The right to refuse work on the grounds of unsafe working conditions had been codified and elaborated to provide greater protection for workers.

45. With respect to work and rest, standard working hours had been established generally across the country. In Ontario for example, the maximum normal working day was eight hours and the maximum number of hours that could be demanded per week was 48. In most circumstances, an employee had the right to refuse to work longer and any voluntary overtime had to be paid at the rate of at least time and a half for every hour over 8 a day or 44 a week. Similarly, basic periods of vacation had

/...

(Mr. Morden, Observer, Canada)

been established across the country, depending on an employee's length of service, and up to 11 public holidays each year were provided for by law. A worker required to work on one of those holidays had to be paid at least twice the normal wage. In addition, trade unions had expanded the basic minimum standards established by law through collective agreements which provided workers with greater benefits than those listed.

46. With reference to article 8 of the Covenant, he pointed out that, as a general rule, workers had the right to form or join a trade union. Labour Acts in all jurisdictions strengthened and defined the constitutional right of freedom of association and provision was made to ensure that unions acted fairly, without discrimination and in the best interests of their members. Lawful restrictions were placed on the rights of some persons, such as the Armed Forces, but provision was generally made in other statutes or by regulations to assure their fair treatment. There were also some groups of public servants and police forces which could have extensive collective bargaining rights including the right to strike, depending on the jurisdiction involved.

47. There was no legislation prohibiting or limiting the affiliation of his country's trade unions locally, provincially or internationally. The Canadian Labour Congress was a major national organization which represented the interests of more than a hundred affiliated national and international trade unions and of workers generally at the national level. Internally, the Congress provided charters to provincial labour federations and community labour councils, while internationally it represented worker interests in the International Labour Organisation and the International Confederation of Free Trade Unions.

48. In all jurisdictions, there was labour relations legislation to safeguard the free functioning of trade unions. Employers were prohibited from participating or interfering in the formation or operation of unions, and from discriminating against any person for being a member of a union, filing a complaint or taking part in a lawful strike. The right of employees to strike or of employers to lock out was limited by provisions of labour legislation which required certain pre-conditions to be met, including mandatory attempts at collective bargaining and conciliation. Additional information on such subjects was to be found in his country's biennial reports to the ILO on Convention No. 87, concerning Freedom of Association and Protection of the Right to Organize.

49. Finally, with reference to article 9 of the Covenant, his country's social security system comprised a variety of social welfare and health care programmes which provided universal coverage to all residents in some instances and to specific groups in others. Primary responsibility for social services resided with provincial governments, but the federal government had played an important role in initiating and supporting their development over the years.

50. In the area of health care, there were universal, State-sponsored health insurance programmes developed to ensure that all residents had access to prepaid medical and hospital care. That aim was met by interlocking provincial plans which

/...

(Mr. Morden, Observer, Canada)

complied with the criteria of federal legislation on the comprehensiveness of ensured services, universality of coverage, transferability of benefits and public administration. Additional coverage was available through voluntary schemes and a variety of provincial plans.

51. Programmes designed to maintain the incomes of those caught in social situations which prevented them from gaining a regular income also operated in all provinces, primarily for such groups as the disabled, the elderly and families with no source of income. In addition, his country had three principal social insurance schemes - Unemployment Insurance, the Canada Pension Plan and Workers' Compensation. The first was a contributory scheme providing unemployment benefits for up to 52 weeks and sickness and maternity benefits for up to 15 weeks at a time. The second was designed to provide workers and their families with a basic level of earnings-related protection against retirement, disability or death. It was a compulsory contributory plan which made up the second tier of his country's three-tiered retirement income system, the first being the universal Old Age Security benefits provided by the Federal Government and the third being those private schemes which provided for things other than the basic necessities. Participation was also compulsory in the Workers' Compensation programmes operated by provincial governments to compensate those injured while working, or spouses and dependent children surviving an employee who died as a result of an industrial injury or illness.

52. In addition, his country provided a wide range of social services aimed at reducing, removing or preventing the causes and effects of poverty, child neglect or dependence on social assistance. They included casework, counselling, assessment and referral services for individuals and families; child welfare services; and rehabilitation and support services for the temporarily or permanently disabled.

The meeting rose at 12 noon.