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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 21st MEETING

Held at Headquarters, New York,
on Monday, 6 May 1985, at 3 p.m.

Chairman: Mr. KORDS (German Democratic Republic)

CONTENTS

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The meeting was called to order at 3.35 p.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 Australia (continued) (E/1984/7/Add.22)

1. At the invitation of the Chairman, Mr. Farmer and Mr. Quinn (Australia) took places at the table.

2. Mr. FARMER (Australia), speaking on general points raised during the Working Group's consideration of his country's report, said that all the questions raised had been brought to the attention of the relevant departments and authorities in Australia, and any replies not provided at the current meeting would be supplied at a later stage. Additional published material would be supplied to the experts, and the issues raised would be taken into account in the preparation of the subsequent report.

3. The expert from Japan had raised the question of the periodicity of reports. While the work involved was indeed great, the Australian Government considered the exercise to be a valuable one, since it not only provided information to the international community, but also encouraged Australian officials at all levels to focus on human rights issues, and was therefore a convenient way of ensuring that treaty obligations continued to be examined regularly. At the same time, there could be some latitude for adjusting the reporting period, particularly after the completion of the first cycle of reports. Consideration might also be given to the question of dealing with compendious attachments, which often gave more substance to the summaries of key developments in the reports.

4. Several experts had sought information about immigration into Australia and the country's demographic composition. Since 1945, some 4 million people from more than 100 countries had settled in Australia, accounting for a significant portion of the total population increase from 8 million to 15.5 million. More than one third of the current Australian population either had been born overseas or had one parent who had been. Over 300 languages were spoken in Australia. The country had been enriched by the contribution of immigrants, and Australia considered the acceptance of people from different backgrounds to be one of its great achievements. Nearly two fifths of the population born overseas had come from non-English-speaking countries. In November 1984, the labour force had consisted of 5,301,300 persons born in Australia and 1,836,100 born overseas, including 1,332,500 in Europe, 259,800 in Asia and the Middle East, 124,900 in Oceania, 61,300 in America, and 57,500 in Africa.

5. The expert from France had asked about Australia's immigration and refugee policies. His Government was committed to a global, non-discriminatory immigration programme, under which priority was given to family reunion and humanitarian obligations, minimizing adverse effects on the Australian labour market. The number of people annually entering Australia for settlement averaged about 80,000,

(Mr. Farmer, Australia)

a significant proportion of whom was admitted under the refugee and special humanitarian programmes. Wherever they came from, immigrants were assured the full civil, political, economic, social and cultural rights enjoyed by other Australians. The Government fostered multi-culturalism and endeavoured to enable immigrants to retain and develop their own language, culture and lifestyle as part of the Australian nation. Since the removal of restrictions on broadcasting in languages other the English in 1983, the amount of air time devoted to broadcasting in ethnic languages had grown dramatically. Over 60 languages were regularly broadcast on federally administered radio stations and community-based stations in receipt of federal subsidies. A number of commercial radio stations also included small amounts of ethnic programming. There was also a federally administered multi-cultural television service. Newspapers and other community publications in a variety of languages functioned independent of the Government. Various Government-funded schemes existed to help schools meet the language needs of children from ethnic communities, while community-run ethnic schools that taught languages and culture to ethnic children on a part-time basis were eligible for federal subsidies.

6. Australia responded generously to refugees and victims of human rights violations for whom resettlement in a third country was the most appropriate solution. In 1983 and 1984, some 15,300 visas had been issued under the refugee and special humanitarian programmes and 16,000 places had been approved for 1984-1985. Some 11,000 refugees would be accepted from Indo-China in 1985. The Government was committed to a diversified refugee and humanitarian intake consistent with its non-discriminatory policies and the principle of international burden-sharing. It was also promoting alternative solutions such as voluntary repatriation and local integration with the country of first refuge and was providing assistance to help ensure the success of those solutions. Australia continued to lay emphasis on family reunion through normal immigration procedures, where they could be established. Refugees enjoyed the same civil and political rights as other Australians, and a number of programmes had been developed to assist them in adjusting to life in Australia. In that connection, he referred the experts to the reports submitted by Australia to the Committee on the Elimination of Racial Discrimination.

7. The experts from France and Denmark had requested information on the Aboriginal population of Australia. According to the 1981 census, there were some 160,000 Aboriginals and Torre Strait Islanders in Australia, representing about 1.1 per cent of the total population. The Aboriginal population had grown some 10 per cent between 1976 and 1982, a rate that was significantly higher than for the non-Aboriginal population.

8. Several experts had asked about the status of Aboriginal Australians. By law, aboriginals enjoyed the full fundamental human rights and freedoms of other Australians. Regrettably, however, many remained in practice in a disadvantaged position. The Government had developed a range of programmes to remedy the effects of past dispersal and current disadvantage, allocating $A 341 million for that purpose in the 1983-1984 budget. It also recognized the importance attached by Aboriginals to regaining and retaining rights to their traditional land. An area

(Mr. Farmer, Australia)

of over 900,000 square kilometres, over 11 per cent of Australia, had been handed over or was in the process of being handed over to them. The problems confronting Aboriginals involved a complex range of questions, including conflicts of value systems and cultures.

9. In response to the expert from Senegal, he said that the Australian Government did not accept that efforts to combat discrimination reflected a particular problem in that area for Australia. His Government had always been frank in discussing issues such as racial discrimination as they affected Australia. It was committed to fundamental human rights and freedoms and, given its multi-cultural society and the special problems of Aboriginal Australians, was more aware than many of the importance of eliminating discrimination whatever its form or degree. Moreover, Australia had a vigorous democratic tradition, which held that issues were best resolved through public discussion, while the egalitarian nature of Australian society had led to a concern that all Australians must have a fair chance.

10. Several experts had sought clarification on the relationship between the Federal and State Governments in the areas covered by articles 6 to 9 of the Covenant. Under the Constitution, the Federal Government had certain exclusive powers, so that the States could not legislate in those areas, and it also had concurrent powers existing alongside State powers, federal law prevailing in the event of a conflict. On the other hand, the States had the power to legislate for the general community and had enacted a considerable body of laws covering many areas linked to the promotion and enjoyment of economic, social and cultural rights. Pursuant to its power over foreign affairs, the Federal Government had undertaken a number of international obligations, including those relating to the Covenant. Because the legislative burden rested with the States, the Federal Government had been careful to consult State Governments closely before undertaking any international obligation. It believed that that process of consultation and co-operation produced a stronger network of measures to combat discrimination and promote human rights than would otherwise be the case. It also promoted the sharing of experience and expertise and the development of ideas and practices which could then have wider application within Australia. While the federal system did introduce some complications in the implementation of treaties, Australia fully accepted that the provisions of the Covenant extended to all parts of Australia without any limitation or exception. Over the years, a co-operative approach had been developed between Federal and State Governments to ensure the harmonization of efforts within the constitutional framework. Federal and State ministers for human rights met regularly to discuss matters of mutual interest, as did a number of other Federal and State bodies to consider matters relating to the implementation of the Covenant.

11. Some experts had expressed the concern that, with the proliferation of State and Federal agencies involved in combating discrimination in employment, complainants might be faced with difficulties in choosing remedies. That was indeed one reason for the emphasis on the use of machinery set up by State authorities pursuant to anti-discrimination legislation. It should also be noted that Australians were perhaps more used to different layers of administration than were citizens of other countries. At the same time, the Government was well aware of the need for education and information.

(Mr. Farmer, Australia)

12. Under the Constitution, the Federal Government had only limited powers in industrial relations, being authorized to make laws with respect to conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State. It could, however, legislate for the employment conditions of its own employees and for all workers in federal territories. Similarly, it could legislate directly for maritime and stevedoring industries. The jurisdiction of the Australian Conciliation and Arbitration Commission therefore depended on the existence or probability of an inter-State industrial dispute between employers and trade unions. It should be stressed that employers and employees were well aware of how the system operated. On the other hand, State Governments had no constitutional limits on their powers to deal with industrial relations and could legislate directly on wages and conditions of work. While most States had taken advantage of that power, all had adopted the general principle that the determination of conditions of employment should be left to independent bodies, and had set up industrial tribunals to deal with employers and employees involved in industrial disputes. The existence or probability of an industrial dispute was not a condition for the operation of State tribunals. In addition, the awards or determinations of State tribunals could apply to everyone engaged in the occupations to which they related. If, however, State laws or awards conflicted with Commonwealth awards, the latter took precedence. By way of illustration, he said that an amendment to the Federal Racial Discrimination Act, enacted pursuant to the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination, stated that the Act was not intended to exclude or limit the operation of State or territorial laws that furthered the objectives of the Convention and were capable of operating concurrently with the Act. Much had been achieved through the co-operative arrangements he had described, and he hoped that the Federal Government's review of its human rights machinery would advance the process.

13. The basic premise of the recourse machinery was that conciliation should be attempted first in an endeavour to avoid the negative effects of formal legal proceedings. There were various remedies available in the courts and, if the conciliation process failed, they could be used. The conciliators themselves could, however, be placed in a quasi-judicial position. Such possible conflicts were being discussed as part of the review of the human rights machinery.

14. Mr. QUINN (Australia), speaking on questions raised with regard to the human rights machinery relevant to article 6 of the Covenant, said that several experts had asked whether the Covenant and other human rights instruments could be annexed to the Human Rights Commission Act. Such a provision did exist under the Act, and the matter was under consideration in the course of the Government's review of its human rights machinery. One problem with including the Covenant as a direct part of the Commission's charter was that, as the obligation assumed under the Covenant was one of progressive implementation, it might be difficult for both the Commission and potential complainants to determine clearly whether particular actions represented a breach of obligations under it. Because of economic constraints, the Government was not in a position to provide the Commission with the extensive resources required to deal comprehensively with the implementation of the Covenant. The matter would, however, be kept under review. It should be

(Mr. Quinn, Australia)

stressed that the Covenant was being implemented in Australia through a network of measures at the Federal and State levels.

15. The expert from France had asked about the composition and powers of the Human Rights Commission. The Commission consisted of seven part-time Commissioners, including its Chairman, and one full-time Commissioner, its Deputy-Chairman, whose status was similar to that of a permanent head of a Federal Department. Following the enactment of the Sex Discrimination Act in 1984, a Sex Discrimination Commissioner was now attached to the Human Rights Commission. The Chairman of the Commission was a long-serving judge who was currently the Acting Chief of the South Australian Supreme Court, while other members included a former senior public servant, two academics (one of whom was active in ethnic affairs, while the other had a background in political science and international relations), a solicitor and barrister active in women's issues, a distinguished aboriginal woman, and two members with disabilities. In relation to the first function of the Commission, set out in paragraph 31 (a) of the report (E/1984/7/Add.22), it had tabled in Parliament reports dealing with acts concerning migration and mental health. As for its responsibility to settle complaints, it had dealt with 145 complaints in 1982-1983, concerning a wide variety of matters including the employment of people with disabilities, health insurance and immigration. In dealing with complaints, the emphasis was on conciliation, but when settlement was not achieved in that way, it could report the matter to the Federal Attorney-General. The elaborate system of commissions and other bodies to protect human rights must be seen as operating as a complement to the variety of common-law and other statutory remedies. For example, the arbitration and conciliation system and the comprehensive labour legislation provided various forms of protection for workers. In the field of racial discrimination, the Commissioner for Community Relations worked with the Human Rights Commission in handling complaints and could provide a certificate to the complainant so that he could take his case before the courts. The idea of the conciliation process was to give the parties the opportunity of finding common ground rather than risking a further polarization of views as a result of formal legal proceedings.

16. In response to a question asked by the expert from the Soviet Union, he said that, apart from frequent contacts between members of the Commission and other organizations and individuals, speaking engagements, and participation in seminars, conferences and radio talks, the Commission had conducted more formal consultations with non-governmental organizations in several cities. It had organized a seminar on the freedom of expression and racist propaganda, and a workshop for senior officers of the Australian public service on human rights and public administration. It also produced a variety of publications, including a bimonthly newsletter. It issued press releases on important decisions and had submitted a number of reports to Parliament on issues of concern. It had also been active in the preparation of teaching materials for school students in the human rights field.

17. In response to a question asked by the expert from Japan, he said that it was indeed correct to assume that because no complaints received by the National Committee on Discrimination in Employment and Occupation had reached the stage of going to the Minister (E/1984/7/Add.22, para. 19), they had been resolved.

(Mr. Quinn, Australia)

18. Several members of the Working Group had asked for clarification on the other categories of complaints dealt with by the National and State Committees on Discrimination in Employment and Occupation. Those categories covered grounds not specifically mentioned in ILO Convention No. 111 and constituted approximately 50 per cent of all complaints received in 1982-1983. Such complaints related to age (15 per cent), criminal record, marital status, medical record, nationality, personal attributes, physical disability, sexual preference, and trade-union activities.

19. Responding to the expert from France, he said that the National Committee's community education programmes referred to in paragraph 17 of the report were usually directed towards employers and employees. However, the Committee had produced a booklet entitled "Getting the most out of work", which was intended for secondary schools and new members of the work force.

20. Responding to the expert from Japan, he said that the National Committee's guidelines for the investigation and conciliation of allegations of discrimination were included as appendix IV to the National Committee's annual report (1980-1981).

21. Responding to the expert from Spain, he said that two of the publications referred to in paragraph 20 of the report - "Equality in employment" and "A guide to discrimination in employment in Australia" - were published in English and in eight other languages (Arabic, Croatian, Greek, Italian, Serbian, Spanish, Turkish and Vietnamese). It was therefore correct to assume that the languages referred to in paragraph 20 included local languages.

22. Responding to the expert from the Soviet Union, he said that scrupulous efforts were made to ensure that appropriately qualified, independent and experienced individuals were appointed as chairmen of employment discrimination committees.

23. Several members of the Working Group had asked whether the recommendations contained in the policy paper entitled "Reforming the Australian Public Service" had been implemented. As had been indicated in Australia's introductory statement, those recommendations had now been embodied in the Federal Public Service Act.

24. Responding to the expert from Denmark, he said that the provisions of the Public Service Enforcement Act of 1974 precluded discrimination on grounds of political affiliation, race, colour, ethnic origin, social origin, religion, sex, sexual preference, marital status, pregnancy, age, or physical or mental disability. It prohibited discrimination which was unlawful under the Racial Discrimination Act of 1975 or the Sex Discrimination Act of 1984, and any other unjustified discrimination. The Public Service Enforcement Act allowed for discrimination in connection with special temporary measures to enable equal employment opportunity programmes to be established for persons of a particular race, sex or marital status, for discrimination in promotion, and so on.

(Mr. Quinn, Australia)

25. The expert from Denmark had requested further details regarding mechanisms set up by federal statutory authorities to combat discrimination in employment (para. 39 of the report). It was not possible to provide a detailed answer at such short notice. However, there were a variety of procedures and operations; for example, in the Australia Post, there was a discrimination review committee which dealt with complaints.

26. Responding to the expert from Spain, who had asked why women were regarded as a disadvantaged group, he said that the Australian Government was merely stating the empirical fact that women, in comparison to men, were discriminated against in a variety of fields. By extension, Aboriginal women and those from ethnic communities tended to suffer particular disadvantages.

27. Women suffered disadvantages with regard to wages, recruitment and promotion. However, there was no data indicating which of those areas had the greatest impact in terms of disadvantage to women. The major action to implement equal pay had taken place through judgements handed down by the Australian Conciliation and Arbitration Commission in 1969 and 1972. In 1972, the average weekly earnings of the adult females working full time had amounted to 65 per cent of the weekly earnings of adult males working full time. That proportion had increased to 78 per cent by 1976, but had not increased significantly since then. In 1983, adult female full-time workers had earned the equivalent of 77 per cent of male full-time average weekly earnings.

28. With regard to recruitment and promotion, both areas had been addressed in various policy and legislative initiatives, including, in particular, the enactment of the Sex Discrimination Act in 1984 and the Public Service Reform Act also in 1984. An affirmative action pilot programme in the private sector was being conducted under the auspices of the Office of the Status of Women of the Federal Department of Prime Minister and Cabinet. One aspect of a recent report on Government-sponsored labour market programmes related to the access of women to such programmes.

29. Responding to the expert from Spain, he said that, of the civilian employees in all government services in Australia, 37.9 per cent were women. The breakdown was: Australian public service - 38.9 per cent; State public services - 41.7 per cent; and local government - 22.6 per cent. In 1970, 13 per cent of employed women had been in professional and technical occupations and, by August 1981, that figure had risen to 18.3 per cent. From 1970 to 1980, the number of women in administrative, managerial and executive positions had increased by 40 per cent. Despite those advances, nearly two thirds of working women were employed in only three occupational groupings: clerical; sales and service; and sport and recreation. Between 1970 and 1980, overall female employment had risen by 29 per cent, whereas male employment had risen by only 17 per cent. Part-time work accounted for much of the increase in women's participation in the labour force.

(Mr. Quinn, Australia)

30. The expert from Spain had asked whether the employment of male nurses by the Navy could have adverse implications for the employment of female nurses. Sex stereotyping had generally had a more damaging impact on the status of women, who had been excluded from certain kinds of employment traditionally reserved for men. In its report, the Australian Government had merely wished to point out that the opposite could sometimes be true.

31. The expert from Spain had requested clarification of the meaning of "sexual harassment". Section 28 (3) of the Federal Sex Discrimination Act defined such conduct as involving an unwelcome sexual advance, an unwelcome request for sexual favours or other unwelcome conduct of a sexual nature especially if a rejection of the advance, a refusal of the request or an objection to the conduct would jeopardize employment or possible employment. The Act further indicated that harassment might be in the form of a statement of a sexual nature made either orally or in writing. Section 29 contained a similar definition in relation to education.

32. Responding to the expert from the Soviet Union, he said that the areas covered by the Sex Discrimination Act were: employment; education; the provision of goods, services and facilities; the provision of accommodation or the disposal of land; the activities of certain clubs; and the administration of a federal law or programme. That Act applied throughout Australia although it might not apply to every act of discrimination because of some limitations on the Federal Government's powers.

33. The expert from the Soviet Union had also asked for information on the activities of the South Australian Ethnic Affairs Commission over the past three years. In 1984, amendments had been made to the Ethnic Affairs Commission Act to allow for the representation of various ethnic groups, and to expand its functions to include responsibility for ensuring that services provided by public authorities would be adapted to the needs of ethnic communities. The Commission was required to consult ethnic communities and to keep them properly informed of its work, and government departments were requireed to formulate and review policies governing their relations with various ethnic groups in the community.

34. Also in response to the expert from the Soviet Union, he said that adequate arrangements were made to enable members of the Handicapped Person's Discrimination Tribunal who had a substantial physical impairment to attend sessions of the Tribunal. In the South Australian Handicapped Persons Equal Opportunity Act of 1981, "physical impairment" was defined as "the total or partial loss of any function of the body"; "the loss of a limb or part of a limb"; "the malfunctioning of any part of the body"; or "the malformation or disfigurement of any part of the body", not including an impairment to the intellect or a mental illness.

35. Mr. FARMER (Australia), responding to the expert from Denmark, said that there were no formal definitions of "long-term unemployed" and "stable employment". Long-term unemployment was normally used in analytical references to mean a duration of unemployment of more than nine months or, in some cases, 12 months.

(Mr. Farmer, Australia)

That term was also used in a more general way to refer to groups of persons who had become eligible for assistance based on duration criteria which might be as short as four months. The Committee of Enquiry into the labour market programmes had recommended the use of a six-month criterion. In a very general sense, "stable employment" referred to employment which was not short-term or temporary, and which might provide persons with an opportunity for self-advancement.

36. Responding to several members of the Working Group and to the representative of ILO, he said that unemployment statistics for February 1985 had indicated that the unemployment rate for the Australian work force was 9.3 per cent. Those figures indicated that there had been very strong growth in the private sector, which had become the major source of new jobs, and that long-term unemployment was gradually being reduced. The unemployment rate of the Australian-born (9.1 per cent) was lower than that of the overseas-born (9.9 per cent). However, since February 1984, the gap between the Australian-born and overseas-born rates had shown a substantial decrease of 1.8 per cent. Siginificant differences occurred in the unemployment rates of the various groups represented in the Australian work force, particularly those from the main English-speaking countries (9 per cent) and those from other countries (10.7 per cent). For the overseas-born, unemployment rates varied according to the length of their residence in Australia: from 8 per cent for persons who had arrived in Australia before 1971, to 31.3 per cent for those who had arrived since January 1984.

37. Also in response to several members of the Working Group, he said that, as of December 1984, there had been over 24,000 unemployed Aboriginals. Throughout Australia, the Aboriginal unemployment rate was more than four times the rate for non-Aboriginals. It was significant that low rates of participation in the labour force occurred in States which had proportionately higher Aboriginal rural populations. In that light, the community development employment projects were an important means of encouraging Aboriginal participation in the work force in remote areas. A lack of conventional education and vocational skills was probably the major obstacle for Aboriginals seeking employment. However, in the last decade, education and training had been widely extended to Aboriginal people, and paragraphs 64 to 75 of the report (E/1984/7/Add.22) provided details about programmes in the public sector to generate employment for Aboriginal Australians. In 1977, his Government had adopted a National Employment Strategy for Aboriginals, the aim of which was to improve Aboriginal access to employment and training opportunities in both the public and the private sectors.

38. Responding to the expert from Japan, he said that the encouragement of self-sufficiency among Aboriginals was a fundamental part of the Australian Government's programmes relating to Aboriginals. The community development and employment projects described in the report illustrated the way in which Aboriginal communities themselves developed and implemented projects. Government programmes relating to Aboriginal unemployment were at least decreasing the rate of Aboriginal unemployment, and a further review of such programmes would focus on whether the programmes now operating were fully relevant to the needs of Aboriginals.

(Mr. Farmer, Australia)

39. Again responding to the expert from Japan, he said that the Government had not given any consideration to the introduction of quotas for Aboriginal employment in either the public or private sector. However, the equal opportunity programmes in the Australian public service were aimed at increasing the number of Aboriginals and Torres Strait Islanders in the service to a level at least equivalent to their representation in the community. Over the past decade there had been great progress in Aboriginal education, although much remained to be done. The 1971 census had indicated that nearly one quarter of all Aboriginals not at school had received no formal education. By mid-1979 there had been over 15,600 Aboriginal children studying in secondary schools, while there had been a further 7,200 students at technical and tertiary institutions and enrolled in adult education courses. In 1981, a total of 30,500 Aboriginals had received study grants from the Department of Education. There had been no definitive study on Aboriginal literacy in English, but the Aboriginal rate of illiteracy might be assumed to be higher than that of the population as a whole. Despite advances, there was a continuing need for special assistance to Aboriginals, since they remained underrepresented at the higher levels of education. Special programmes ranging from pre-school to tertiary education were now available to Aboriginals, and there were several types of study grants designed to assist Aboriginals. The Federal Department of Aboriginal Affairs was active in promoting Aboriginal education.

40. Responding to the expert from the Soviet Union, he said that there was no requirement that the posts specified in paragraph 72 (b) of the report (E/1984/7/Add.22) had to be filled by Aboriginals. The purpose of the programme was to ensure that adequate account was taken of the special concerns and sensitivities of Aboriginal Australians. The reference to the "ability to communicate" with Aboriginals related both to language and to the need for individuals with the proper training and a sound understanding of Aboriginal culture to deal adequately and sensitively with some Aboriginals who might have had little contact with non-Aboriginal society.

41. Replying to a point raised by the expert from the Soviet Union, he said that Aboriginal hostels had developed a very complex table of tariffs based on the status of their clients.

42. The expert from Spain had asked about the impact of unemployment on various age groups. The respective unemployment rates were 24 per cent for those between the ages of 15 and 19, 5.8 per cent for those between 55 and 59, and 5.3 per cent for those between 60 and 64. There were no statistics available for those 65 years and over.

43. Responding to the expert from Bulgaria, he said that an independent committee of inquiry had recently reviewed labour programmes and policies, and that data on existing programmes indicated that they had had a significant impact on the employment prospects of young people. For example, some 50 per cent of the 37,000 young persons who had received subsidized work experience under the special youth employment training programme in 1983-1984 had found employment three months after the end of their placement.

(Mr. Farmer, Australia)

44. Data on the effectiveness of school-to-work transition programmes was more limited. However, data on disadvantaged young persons who had attended a range of transition-type courses, often after an extended period of unemployment, indicated that 20 per cent of those persons had found employment three months after the end of their courses.

45. Responding to the expert from Spain, he said that there was an extensive programme of in-service training for the staff of the Commonwealth Employment Service (CES) to ensure that they did not engage in discriminatory practices when dealing with job applicants. If a job applicant believed that CES staff was guilty of discrimination, he could have recourse to a number of legal remedies.

46. Responding to the expert from France, he said that unemployment benefits might be paid indefinitely if the relevant criteria were met. The criteria were applied in the same way, regardless of the length of the unemployment in question.

47. Responding to the expert from the Soviet Union, he said that the national job bank system had been commissioned progressively since late 1982 and now extended to 160 employment offices across the country. The main purpose of the project had been to provide information regarding vacancies throughout Australia.

48. Responding to the expert from France, he said that CES staff were given thorough training to ensure, as far as possible, that discriminatory attitudes did not affect the prospects for employment of job-seekers. CES programmes for subgroups such as youth, the disabled and Aboriginals had been based on the principle that some groups had special needs and should be entitled to programmes which supplemented the services available to all job-seekers.

49. Responding to the expert from the Soviet Union, he said that the CES services for migrants, referred to in paragraph 88 of the report, were provided free of charge.

50. Responding to the expert from Japan, he said that the revised estimate for the 1984-1985 subsidy to provide adult long-term unemployed job-seekers with a period of stable employment (referred to in paras. 118 and 119 of the report) was $A 38.8 million for 16,800 trainees.

51. Mr. QUINN (Australia) said that with respect to article 7 of the Covenant, several members had sought clarification about the centralized wages fixation system, minimum rates and awards. Australia's first periodic report provided a detailed account of how those concepts fitted together. In short, industrial tribunals in the Federal and State jurisdictions were empowered to fix minimum rates on the basis of fair and proper wages. The Federal Tribunal had traditionally taken the lead in that area. Tribunals had been concerned mainly with the level of wages for unskilled workers, the fixing of margins over and above that level for various categories of skilled labour, and the setting of allowances for special conditions such as discomfort, danger or seasonality. There were two types of minimum rates in Australia: the minimum wage to be paid to individuals in

(Mr. Quinn, Australia)

relation to their age and hours of work, and the award wage. The latter was the rate set by an award for each classification of recipient detailed in the award. The concept of wage-indexation had been introduced in Australia by a decision of the Conciliation and Arbitration Commission in 1975.

52. The expert from Bulgaria had asked whether wage levels were comparable for different categories of workers, such as women, the young and the elderly. Australian wages were governed by a system of minimum wages and award payments. Therefore, while there were some differences in wages, those differences related to experience, seniority and productivity, rather than age or sex. With regard to migrant employees' earnings, the August 1984 survey by the Australian Bureau of Statistics showed that the average weekly earnings of overseas-born full-time employees were slightly higher than those of Australian-born employees. Full-time employees from the main English-speaking countries had higher than average weekly earnings, while full-time employees born in other countries had lower than average weekly earnings.

53. Questions had been asked about the meaning of equal pay for equal work. That concept had been discussed in Australia's first report. The right to equal pay for equal work had first been recognized at the federal level by the Conciliation and Arbitration Commission in decisions in 1969 and 1972 respectively. The latter decision specified that award rates would be fixed by consideration of the work performed, irrespective of the sex of the worker.

54. Several members of the Working Group had asked about the test case referred to in paragraph 121 of the report (E/1984/7/Add.22) with respect to minimum standards of job protection in federal awards. As had been indicated in Australia's introductory statement (para. 10), the decision of the Conciliation and Arbitration Commission had been in favour of the claim of the Australian Council of Trade Unions.

55. The expert from the Soviet Union had sought statistical information on occupational health and safety. Those statistics were compiled on a State-by-State basis. At present, the figures included different elements and therefore were not directly comparable. However, since the establishment of the National Occupational and Health and Safety Commission, a statistics and surveillance committee had been established which had a mandate to advise on the development of comparable statistical collections for occupational injury and disease across the States and Territories. Attempts to standardize statistics would therefore be dependent on full and active co-operation between the States and Territories. While every State and Territory provided compensation for occupational injuries, the actual benefits varied.

56. Mr. FARMER (Australia) said that with respect to article 8 of the Covenant, several members of the Working Group had asked about participation of migrants in trade unions. Immigrants enjoyed the full civil, political, economic, social and cultural rights of their fellow Australians. There were no obstacles to immigrants joining or forming trade unions. Indeed, a number of prominent trade-union

(Mr. Farmer, Australia)

officials in Australia had been born outside the country. At the same time, it was important to ensure that all immigrants were aware of their rights and could enjoy in practice the opportunities and freedoms available to them. Workers who were immigrants to Australia, especially those from non-English-speaking backgrounds, had higher rates of union membership than did Australian-born workers. Immigrant women too had higher rates of union membership than women workers born in Australia. That was probably due to the great concentration of immigrants in industries and occupations that were highly unionized.

57. The expert from the Soviet Union had asked for figures on Aboriginal membership in trade unions. Attempts to obtain such information had been unsuccessful because the Australian Council of Trade Unions had no record of the race of its members.

58. The expert from Bulgaria had asked whether unions had helped to diminish the number of strikes in Australia. The historic prices-and-wages accord of 1983 had helped to reduce the number of work-days lost to industrial disputes in Australia to record low levels. It was therefore clear that the understanding between the Government, trade unions and employers had had a major impact in reducing the number of strikes in Australia.

59. The expert from France had asked whether Australia had anti-trust legislation. The Trade Practices Act dealt primarily with issues such as resale price maintenance and monopolies. A copy of the Act was available for consultation in the files of the Secretariat.

60. Several experts had sought information about the loss of unemployment benefits by persons who were dismissed because of industrial action. Subsection 107 (5) of the Social Security Act provided that a worker was not disqualified from receiving unemployment benefits "in respect of a period occurring after the cessation of the relevant industrial action". Unemployment in the context of section 107 of the Act was defined to include persons temporarily discharged or suspended from employment. Thus, the provision would prevent payment of unemployment benefits to workers on strike. Once the strike had ended, workers would be eligible for unemployment benefits if they were then no longer employed. His Government did not believe that the provisions of that Act undercut the fundamental right to strike.

61. Mr. QUINN (Australia) said that with respect to article 9 of the Covenant, the expert from Spain had sought information about equality of treatment of men and women under the Social Security Act in relation to the provision of benefits. The Social Security Act was exempt from the provisions of the Sex Discrimination Act. Currently, there were a number of aspects which involved differential treatment according to sex or marital status. Most of that differential treatment was favourable to women. For example, women qualified for pensions at age 60, while the age for men was 65. If a claimant was a widow as defined by the Act, she could receive a non-work-tested widow's pension from age 50 (45 in some circumstances). Wives of pensioners could also receive a wife's pension, but there was no husband's pension. While a spouse carer's pension was not payable to women, they were not

(Mr. Quinn, Australia)

disadvantaged financially because all who would otherwise have received a spouse carer's pension were eligible for a wife's pension under identical conditions. The Social Security Act made no distinction on grounds of sex in the various income and assets tests.

62. The expert from Denmark had asked whether pensions had been increased during the wages pause. As indicated in the report, the maximum standard in married rates for pension was automatically increased each May by the percentage increase in the consumer price index (CPI) between the previous June and December quarters, and each November by the CPI increase between the previous December and June quarters. During the wages pause, such increases had continued in the normal manner.

63. The expert from Spain had asked why the wife's pension was not payable to a wife living apart from her husband. A woman who was separated from her husband was treated as a single person. A wife who could not qualify for a wife's pension might qualify for other financial assistance in her own right.

64. The expert from the Soviet Union had asked whether pensions were increased by the same amount as the rises in the CPI. They were, subject to some rounding. In November 1984, there had been no indexation increase in pensions. However, the Government had given a specific increase under special legislation.

65. The expert from the Soviet Union had asked for details of the eligibility period for payment of family allowances. As had been indicated in Australia's first report, presence and residence, or the intention to reside, in Australia were general conditions for eligibility. Residence for that purpose meant residence as defined in the Income Assessment Act.

66. The expert from Bulgaria had asked about pension differentials for different categories of the Australian population. There were no such differentials. Provision of payments was based on eligibility criteria applied universally to all Australians.

67. The expert from the Soviet Union had asked for information on how unemployment benefits were paid, including the relevant criteria. The eligibility criteria were those set out in Australia's first report on articles 6 to 9 of the Covenant. Those included the provisions that a claimant must be at least 16 years of age but below pension age; must have been resident in Australia for at least one year immediately prior to the date of claiming the benefit, or must intend to reside in Australia permanently; must be unemployed but not as a result of being engaged in industrial action or because another member of his union was engaged in industrial action; and must be capable of undertaking and willing to undertake suitable work and have taken reasonable steps to obtain such work.

68. The expert from Bulgaria had sought information about vacation provisions in Australia. In general, there were four weeks of paid vacation, as well as special leave to cover bereavement, study and other domestic situations, and sick leave. In addition, there was a long-service leave entitlement, usually 13 weeks after 10 or 15 years with the same employer.

(Mr. Quinn, Australia)

69. Several members had sought information about the application of Medicare. That scheme applied to all residents of Australia, including immigrants. However, temporary visitors such as tourists were not covered.

70. The expert from Denmark had sought clarification about the difference between bulk and individual patient billing. The difference was in essence administrative only, although many doctors preferred the individual billing process in order to expedite payments. Bulk billing was normal in the case of groups such as old-age pensioners and insured persons. Both systems were used in private and State hospitals.

71. The expert from France had sought clarification about the meaning of "human experimentation" in paragraph 248 of the report (E/1984/7/Add.22). He wished to draw attention to two publications referred to in the annex to the report, which were entitled Ethics in Medical Research and Ethics in Medical Research involving the human fetus and human fetal tissue. In the former publication, the National Health and Medical Research Council had made a statement on the subject of human experimentation, which covered a range of activities, from those undertaken as part of patient care to those either on patients or on healthy subjects for the purpose of contributing to knowledge, including investigations relating to human behaviour. The Council had put forward the proposition that investigators had a number of ethical and legal responsibilities towards their subjects. There was a lively debate in Australia on the issue of human experimentation, among the general public as well as among medical and legal experts.

72. Mr. FARMER (Australia) said that the consideration of Australia's second periodic report had been a rewarding experience for his delegation. Australia believed that it was useful to examine the practice of States parties in the implementation of the Covenant and welcomed the periodicity of the submission of reports.

73. The CHAIRMAN said that the Working Group had thus concluded its consideration of the second periodic report of Australia.

74. Mr. Farmer and Mr. Quinn (Australia) withdrew.

75. The CHAIRMAN said that the Working Group had thus concluded consideration of all periodic reports submitted for the current session. He believed that the work of the Group in that regard had been thorough and fruitful.

The meeting rose at 5.35 p.m.