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Chairman: Mr. Francisco CUEVAS CANCINO  
(Mexico).

AGENDA ITEM 12

Reports of the Economic and Social Council (A/5803, chaps. VIII, (sects. I, II and V), IX and X (sects. I, IV, V and VII); A/6003, chaps. XII (sects. I, III and IV), XIII and XIV (sects. I, III and V) (concluded)

1. Lady GAITSKELL (United Kingdom), in explanation of her vote at the previous meeting on the draft resolution concerning advisory services in the field of human rights (A/C.3/L.1282/Rev.1, as amended), said that while it recognized the logic in the present political climate of the Committee's decision to give priority to the seminar on apartheid over the seminar on the status of women, her delegation thought that during the debates the rights of women had been brushed aside by some representatives, especially the Saudi Arabian representative. She considered that the United Nations programme concerning the status of women had suffered badly as a result of the decision which the Third Committee had taken at the previous meeting. Her delegation reserved the right to try to rehabilitate the programme for the status of women at some future date.

2. Her delegation regretted that the wise suggestion of the Netherlands delegation had been greeted with suspicion and considered by some to be tainted with colonialism. She would point out that the purpose of a seminar should not be just to condemn apartheid; it should seek to achieve the multi-racial society envisaged by the Netherlands delegation in which all citizens would be able to live in liberty, fraternity and equality. It was on that understanding that her delegation had voted in favour of the resolution for the holding of such a seminar.

3. Mrs. MANTZOULINOS (Greece) and Miss TABBARA (Lebanon) said that had they not been

compelled to be absent at the time of the vote on the resolution for the holding of a seminar on apartheid, they would have voted in its favour.

4. Miss LUMA (Cameroon) wished to dispel any doubts that her statement at the previous meeting might have created in the minds of some delegations concerning her delegation's position on the question of the status of women. The Government of Cameroon championed the cause of the emancipation of women as strongly as it deplored apartheid. Furthermore, her delegation, which had voted for the holding of a seminar on apartheid, had also voted for the resolution concerning the emancipation of women.

5. The sole purpose of her intervention at the previous meeting had been to prevent a postponement of the seminar on apartheid, whose importance and urgency in the present circumstances were obvious to everyone, even if that meant foregoing, for the time being, one of the seminars on women, which, incidentally, unlike the seminar on apartheid, could be held at the national level.

6. In reply to those delegations which had said that by voting for the seminar on apartheid the Committee appeared to have gone back on its vote on the resolution concerning the emancipation of women, she pointed out that that was only a secondary consideration because in cases of urgency decisions might have to be reversed.

7. She was gratified that the matter had been entrusted to the Secretary-General and that the Committee had merely indicated what order of priority should be followed.

8. Mrs. MBOJANA (Uganda), speaking on behalf of the sponsors of the draft, wished to thank the members of the Committee for having adopted the resolution. The sponsors had appreciated the arguments advanced in support of its adoption, all of which reflected the importance that the Committee attached to the matter.

9. The Guinean representative had eloquently explained the principles underlying the draft resolution. He had also made it clear that the point raised by the Netherlands representative, namely the concept of a multi-racial society, would be included in the agenda of the seminar.

10. Mr. MUMBU (Democratic Republic of the Congo) welcomed the decision taken by the Committee in adopting the resolution. The Congo, which considered the struggle against apartheid and the cause of the emancipation of women to be equally important, hoped that it would be possible to hold the seminars on both matters in 1966. Agreeing on that point with

the Chairman and with the representatives of Madagascar and the Soviet Union, among others, he had not felt that, by voting for the international seminar on apartheid, he had been going back on the decision that had been taken in regard to the seminars concerning women.

11. Mr. ELMENDORF (United States of America) said that while he was gratified at the Committee's unanimous vote in favour of the seminar on apartheid, he would have liked the Secretary-General to have been given greater latitude with regard to the financing of the seminar.

12. He was glad that the Committee's report would reflect the general desire of the representatives to maintain the fellowship programme.

### AGENDA ITEM 58

Draft International Convention on the Elimination of All Forms of Racial Discrimination (continued)\* (A/5803, chap. IX, sec. I; A/5921; E/3873, chap. II and annexes I and III; A/C.3/L.1221, L.1239, L.1241, L.1249, L.1251, L.1262, L.1266, L.1268, L.1270 to L.1273, L.1274/Rev.1, L.1278)

#### ARTICLES ON MEASURES OF IMPLEMENTATION

13. The CHAIRMAN reminded the Committee that it had already adopted the preamble and the substantive articles of the draft International Convention on the Elimination of All Forms of Racial Discrimination (A/C.3/L.1239, L.1241, L.1249, L.1262). It now had to consider the measures of implementation and the final clauses. In view of the importance of those provisions, he agreed with the suggestion made by the French and Italian representatives, among others, that the Committee might concentrate on the measures of implementation. In that regard, the Committee had before it the proposals submitted by the Philippines (A/C.3/L.1221) and the amendments thereto submitted by the United Kingdom (A/C.3/L.1266), the Latin American countries (A/C.3/L.1268), the Netherlands (A/C.3/L.1270), the United States of America (A/C.3/L.1271), Tunisia (A/C.3/L.1273) and Ghana (A/C.3/L.1274/Rev.1). The Committee also had before it statements of the financial implications submitted by the Secretary-General (A/C.3/L.1251, L.1278).

14. Mr. GARCIA (Philippines) recalled that in the substantive articles of the Convention which had been approved by the Committee, provision had been made for the measures to be taken by each State Party within its jurisdiction to comply with its legal obligations under the Convention. The Philippine proposals would further provide for means of implementation beyond the national level in respect of States Parties, persons, groups of individuals and non-governmental organizations in order to strengthen the Convention and make it an effective instrument.

15. Article 1 of the proposals (A/C.3/L.1221) would call for reports on legislative or other measures adopted by States Parties to be submitted through the Secretary-General to the Economic and Social Council for transmission to the Commission on Human Rights or the specialized agency concerned for information, study and recommendations.

16. Articles 2 to 18 would provide for the establishment of a good offices and conciliation committee to which States Parties might complain on grounds of non-implementation of the Convention, but only after all domestic remedies had been exhausted. If a solution could not be reached, the committee would draw up a report on the facts and indicate its recommendations. Eventually the States Parties could bring the case before the International Court of Justice.

17. Article 16 would allow the committee to receive petitions from persons, groups of individuals and non-governmental organizations in consultative status with the Economic and Social Council, provided that the State Party concerned had recognized the committee's competence to receive such petitions.

18. Article 19 provided for the submission to the International Court of Justice of any dispute involving the interpretation or application of the Convention.

19. Reviewing the background of the Philippine proposals, he recalled that with the exception of article 16, which had been inserted shortly before the submission of the proposals, the texts of all the articles were the same as the texts of the documents mentioned in the note by the Secretary-General (A/5921, paras. 5 (b) and (c)), namely article X of the draft Convention transmitted to the Commission on Human Rights by resolution 1 (XVI) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/3873, para. 281) and the preliminary draft of additional measures of implementation transmitted to the Commission on Human Rights by resolution 2 (XVI) of the Sub-Commission (E/3873, annex I).

20. With the exception of article 16, all the articles in the Philippine proposals had been drafted and introduced in the Sub-Commission by Mr. J. D. Ingles, the Philippine expert serving on that body. He had taken as the basis of his draft the relevant provisions of the draft covenant on civil and political rights and on the Protocol to the UNESCO Convention against Discrimination in Education. Article 16, concerning the right of petition, had been based on a similar provision in the European Convention for the Protection of Human Rights and Fundamental Freedoms.

21. The Philippine proposals consisted essentially of two measures—the reporting procedure provided for in article 1 and the establishment of implementation machinery in the form of a good offices and conciliation committee (articles 2 to 18). Within the framework of the second measure, article 16 provided for a third means—the right of petition by persons, groups of individuals and non-governmental organizations.

22. The original article 1 of Mr. Ingles's preliminary draft, considered by the Sub-Commission, had become article X of the draft Convention submitted to the Commission on Human Rights. That article had now become article 1 of the Philippine proposals. The remainder of the preliminary draft—articles 2 to 15 and 17 to 19 of the Philippine proposals—had been transmitted by the Sub-Commission to the Commission on Human Rights as an expression of the general views of the Sub-Commission.

\*Resumed from the 1318th meeting.

23. Owing to lack of time, the Commission at its twentieth session had been unable to vote on article X of the draft Convention, although that article had been discussed and had appeared to meet with no objection, or on the remainder of the preliminary draft, and it had decided to refer all the provisions relating to measures of implementation to the General Assembly.

24. Thus, the measures proposed by the Philippines were not new or radical and represented a logical next step for the completion of the Convention. Moreover, although the Convention on the Elimination of All Forms of Racial Discrimination was an entirely separate instrument, those measures, excepting article 16 on petitions, were similar to the measures of implementation in the draft Covenant on Civil and Political Rights. In other words, the many debates and studies to which the latter had given rise in various United Nations bodies and particularly the Commission on Human Rights, the Economic and Social Council, the Third Committee and the Secretariat, as well as the comments of Governments, could usefully be consulted in the consideration of the Philippine proposal.

25. Even article 16, which was an addition to the original draft, was not new since it had been discussed in the Commission on Human Rights some fifteen years ago.

26. The last time that the General Assembly had dealt with the draft International Covenants on Human Rights, at its eighteenth session in 1963, it had also considered the question of implementation, and had adopted resolution 1960 (XVIII). In that resolution it had stated that the measures of implementation were vital for the adoption and effectiveness of the Covenants, which of course applied equally well in the case of the Convention on the Elimination of All Forms of Racial Discrimination. He trusted that Member States, to which the Secretary-General had transmitted the documents on implementation in pursuance of resolution 1960 (XVIII), were now in a position to decide on the matter of implementation with regard to both the Covenants and the Convention.

27. During the debates in the Committee on the substantive articles of the Convention, his delegation had been deeply impressed by the universal desire of members to complete the consideration of the Convention quickly in order to secure an effective means of eliminating racial discrimination, which was clearly an important and urgent problem. Nevertheless, his delegation wondered whether the Convention in its present form, although the product of much hard work, was very different from the United Nations Declaration on the Elimination of All Forms of Racial Discrimination adopted by the General Assembly in 1963 (resolution 1904 (XVIII)). The Convention would acquire meaning and substance only if it was accompanied by effective measures of implementation; such measures were the very core of the instrument and without them it would remain a dead letter.

28. As a country which had actively taken part in the promotion of human rights since the birth of the United Nations, the Philippines was most anxious that a Convention able to serve that cause effectively should be adopted.

29. In view of the fact that the debates on the Convention had revealed a wide range of opinions, that compromises had been reached on many controversial issues because of the desire of members to hasten the Convention's adoption, and that many provisions might give rise to conflicting interpretations, it was important to establish procedures for safeguards and conciliation.

30. During the past few years the protection of human rights, including those threatened by the practice of racial discrimination, had become a fundamental concern of international law. He believed it should be emphasized that the Convention was an international legal instrument and where implementation was concerned, should be viewed solely from the legal standpoint. It should also be pointed out that the Convention was the first major international agreement on human rights to emerge from the United Nations, and the first to be preceded by a declaration. Accordingly, in considering the implementation of the Convention, the Committee was in fact blazing a trail and paving the way for similar measures in instruments of a like nature. The question of implementation had been before the General Assembly long enough for a decision on the matter to be taken in regard to the Convention, especially in the light of the recommendation of the Commission on Human Rights (see Economic and Social Council resolution 1015 E (XXXVII)) that several such conventions should be adopted and opened for ratification and accession before the International Year for Human Rights in 1968.

31. His delegation believed that the time had now come to consider and possibly decide upon the measures of implementation. It was clear from the summary record of its 810th meeting that the Commission on Human Rights had intended to refer the matter of implementation measures in the Convention to the Assembly for a decision (see E/3873, para. 283). The Third Committee was well qualified to undertake that task in order to complete the Convention, possibly at the present session.

32. Those were the reasons which had led his delegation to submit its proposals on implementation before the 11 October deadline for the submission of amendments, in order to bring the question of implementation to the fore. Had the proposals not been submitted, the Committee might perhaps have thought that it had concluded its consideration of the Convention, whereas it would not have taken up the measures of implementation which, to his delegation, were of the utmost importance.

33. His delegation would pay the closest attention to all comments, suggestions and advice which members might put forward. It realized the difficulty of drawing up implementation provisions which would be acceptable to all States. But any measure of agreement which might be reached in that matter would eloquently demonstrate the progress made by the United Nations in the field of human rights. The achievements of the Organization in that sphere over the past twenty years had been substantial, but the road had not been easy nor progress rapid enough. In order to translate the principles of human rights into concrete legal provisions, which was the

only way of achieving the objectives of the United Nations, new ground must be broken and many obstacles overcome. His delegation was certain that the Committee would prove equal to the challenge.

34. Lastly, he hoped that the spirit of understanding and the sense of urgency which had prevailed so far in the Committee would continue to prevail in the deliberations on the question of implementation.

35. He might have occasion to speak again on the substance of the proposals he had just introduced.

36. Mr. LAMPTEY (Ghana) said that his delegation, having listened attentively to the various opinions expressed during the discussion and having studied all aspects of the problem, was now convinced that the Third Committee should neither leave it to the Commission on Human Rights to prepare draft articles on measures of implementation for the Convention or be satisfied to adopt one or two harmless measures now and ask the Commission on Human Rights to draft the remainder. Since the schools of thought in the Commission and the Committee were more or less the same, the deliberations of the former would overlap with those held subsequently in the latter, which would moreover find itself confronted with a flood of amendments when it took up the draft. It was thus the Committee's task to prepare and adopt the measures of implementation at the current session, which it could do in as friendly an atmosphere as prevailed in the Commission on Human Rights.

37. It had been said that certain opponents of the draft Convention had called for implementation measures in order to block its adoption. Even if that was true, those who had been sincere in their support of the draft Convention during the general debate should take care not to fall into the trap by postponing a decision on the measures of implementation.

38. It had also been said that the Afro-Asians had not been very anxious for the immediate adoption of implementation measures, but no one could believe such talk after hearing their statements and observing their actions on behalf of the Convention. Each of them had emphasized the necessity and urgency of the instrument, and it would be the height of hypocrisy for them now to recant. Nor was the argument that the Convention could be adopted by the Assembly and ratified by States even before implementation clauses were prepared very convincing, since without such clauses the draft Convention could be but a declaration, which would contribute nothing new to the world.

39. Some had spoken of the lack of time, but that argument also carried little weight; for no matter how lengthy the implementation articles might be, only a few clauses should be the subject of controversy. Moreover, the members of the Committee had already demonstrated that they were capable of a high degree of statesmanship and genuine co-operation in reaching acceptable compromises without abandoning principle. His delegation, in revising its original text, had sought to produce one which could command a large majority. The need to observe the time-limit for submission of amendments had obliged it to submit the text in its own name, so that at least a second document on the question would

be before the Committee and the growing campaign to delay a decision could be halted.

40. Introducing his delegation's amendments (A/C.3/L.1274/Rev.1) to the Philippine draft (A/C.3/L.1221), he said that the committee of eighteen members elected by States Parties to the Convention, which would be responsible for receiving reports from States and overseeing the effective application of the Convention, would not be sufficiently independent and impartial to be able to serve as a conciliation body in the event of a dispute between parties. Provision might be made for a permanent conciliation body, but that solution, apart from being too costly because of the condition of United Nations finances, would have many other disadvantages; experience had shown that bodies of that nature often created more problems than they solved, that sooner or later they were dominated by one ideological group, and that their authority might be challenged by the majority of States, which already found it difficult to accept the jurisdiction of the International Court of Justice. It had therefore been considered wiser to provide for the creation, on an ad hoc basis, of a conciliation commission of relative impartiality, by the unanimous consent of the parties to the dispute, with the assistance of the chairman of the committee of plenipotentiaries. A similar formula had been adopted and used quite effectively by the International Labour Organisation.

41. With reference to the actual provisions of his delegation's draft articles, he observed that, as the Convention obliged States to undertake legislative, judicial and administrative measures to eliminate racial discrimination, it was only natural that they should be asked to report on the measures they had taken to implement the Convention. It had been thought best to confer the responsibility for reviewing the reports on a body consisting solely of representatives of States parties to the Conventions. Similarly, under article I, paragraph 6, the committee could request explanations from States Parties and make recommendations to the General Assembly, but only after consulting the States Parties concerned, so that in the event of the committee's being dominated by any State or group of States the atmosphere of agreement surrounding the conclusion of the Convention might be maintained.

42. For similar reasons, article VI provided that, when any matter arising out of article III was being considered by the Committee, the Governments in question should, if not already represented thereon, be entitled to send a representative to take part in the proceedings of the committee, but without voting rights. Article VII contained provisions designed to ensure the impartiality of the members of the conciliation commission, who were not to be nationals of the States parties to the dispute. The form of solemn declaration which members of the conciliation commission would have to sign was modelled on the basic ILO texts.

43. With respect to article IX, the International Law Commission had formulated draft provisions on the question of arbitration which, however, had not been accepted by all Member States. His delegation, being anxious to obtain the agreement of a large majority,

had abandoned its original idea and had made the common consent of the parties the essential condition for the submission of the dispute to the International Court of Justice. Nevertheless, his delegation was of the opinion that, once States had given such consent, they were obliged to accept the decision of the Court. As the Convention would be adopted under the auspices of the United Nations, article X, as proposed by his delegation, provided that the committee might ask the General Assembly or the Security Council to secure compliance with the recommendations of the conciliation commission or the decisions of the International Court of Justice.

44. Article XII was based, with some changes, on the amendment submitted by Saudi Arabia to article 40 of the draft Covenant on Civil and Political Rights (A/C.3/L.1267) on the question of petitions by individuals. The article was an important one, since racial discrimination affected individuals, rather than sovereign States. With respect to article XIII, many United Nations agencies already had arrangements for the settlement of disputes, which should be dealt with by the most appropriate procedures.

45. The Third Committee must seize the opportunity afforded by the tide of public opinion against racial discrimination in order to finish its work in that field. Racial hatreds had occasionally erupted between certain peoples, sometimes to a degree of unbelievable savagery. For centuries, however, the black people had suffered most. For that reason, his delegation was resolutely determined to see the Committee complete its work.

46. Mr. LEA PLAZA (Chile) said that the Latin American countries had approached the study of the Convention realistically and constructively. On behalf of those countries he introduced the amendments (A/C.3/L.1268) to the articles relating to measures of implementation submitted by the Philippines.

47. The first proposal was for the insertion, in article 1 of a new paragraph 3, the text of which was taken from the draft Convention submitted to the Commission on Human Rights by the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

48. He pointed out, in connexion with that text, that racial discrimination was seldom elevated to the status of an official policy. It was usually the work of certain groups of society, and was practised independently of and in spite of State legislation. The draft submitted by the Philippine delegation provided for periodic reporting on legislative or other measures adopted by Governments to implement the provisions of the Convention. Under that procedure, reports would be forwarded to the Economic and Social Council and the Commission on Human Rights by the State itself. The Latin American countries had submitted their amendments in order to provide racial groups subjected to discrimination with a means of direct recourse and to allow them to inform world opinion of the discriminatory measures directed against them. The procedure proposed was similar to that which had been established for the purpose of securing respect for human rights. Persons suffering from racial discrimination would be

able to address a communication to the Secretary-General. The State of which complaint was made would also be allowed to state its views. The Economic and Social Council could transmit those communications and the replies of the States to the Commission on Human Rights or any other competent body for information and study. It would not be required to do so, however, since the Council would be responsible for judging how serious or justified were the complaints received. In the second proposal, which followed from the first, the sponsors requested the addition, at the end of the existing paragraph 3, which would become paragraph 4, of a sentence allowing the States Parties directly concerned to make observations also on any recommendations that might be made in accordance with the new paragraph 3 of article 1.

49. Unless individuals were given an opportunity to inform international bodies of the discrimination to which they were subjected, States would be forced to go to the defence of persons or groups of persons in another State, and that would involve interference in the domestic affairs of States which the countries concerned would be unable to accept.

50. The delegations of the Latin American countries believed that the clauses they were proposing would broaden the scope of the Convention and they would welcome any suggestions for improving the text.

51. Lady GAITSKELL (United Kingdom) observed that the question which the Committee was now taking up—that of implementation measures—was one of the most important aspects of its work since it meant considering how to do something really practical about human rights.

52. With reference to the remarks of the representative of Ghana, she was astonished that after years of progress and effort some representatives still favoured passing the subject back to the Commission on Human Rights. That attitude seemed to indicate either that certain delegations feared that racial discrimination was too politically thorny a subject, that they were not awake to the urgency of the problems—although they had adopted a resolution calling for the organization of a seminar on apartheid—or that they considered it safer to back down when it came to implementing proposals which they themselves had originally warmly supported.

53. The instruments so far adopted by the United Nations were certainly useful, if only because they gave an idea of the measure of agreement reached on principles. However, agreement on principles was not enough. States were indeed obliged to go further, under the obligations expressed in the Preamble and in Articles 55 and 56 of the Charter, and see that the United Nations was given a practical and active role in the promotion of human rights.

54. Unlike the representatives who had denied during the discussions that any racial discrimination existed in their countries, she admitted that such discrimination did exist in the United Kingdom, where it had been aggravated by a large influx of new immigrants. The unfettered United Kingdom Press had made no attempt to hide that fact from world public opinion. Her country was dealing with its problems of racial dis-

crimination and welcomed the fact that the United Nations was interesting itself in them also. It was precisely because her delegation regarded racial discrimination as an extremely complex problem—it was only necessary to look at the way in which men distorted facts and invented theories to prove their superiority—that it considered legislation alone to be of doubtful value in eradicating it. In her opinion, using legislation by itself was like cutting down a noxious weed above the ground and leaving the roots intact.

55. Moreover, there came a point when legislation encroached on freedom of speech and association. The United Kingdom had always sought to keep a balance between repressive legislation and freedom of expression. It might well be that that attitude was displeasing to certain delegations—the same ones which never failed to search the free Press of the United Kingdom for arguments which they could use against that country. Nevertheless her delegation could not express strongly enough its belief in free speech, free communication and free association, to say nothing of the freedom to come and go across frontiers, which it considered to be the most valuable way of revealing and eliminating racial discrimination wherever it existed.

56. The United Kingdom delegation was sure that the same delegations which had strongly supported legislative action by the United Nations would be just as ready to tackle boldly the question of implementation and thus prove to the world that they were ready to translate their words into deeds.

57. Mr. CAPOTORTI (Italy) welcomed the proposals made by the representatives of the Philippines and Ghana, which both had the same aim of arming the substantive articles of the convention with effective implementation clauses.

58. Quite apart from the fact that a convention consisting solely of provisions of a legislative or judicial nature left each State free to interpret the convention in its own way and to decide to what extent the convention was binding upon it, it was absolutely vital, in view of the inadequacy of the remedies which could be sought in existing international law when a right was violated, to establish special international guarantees designed to prevent abuses and possible violations of the principles of the convention by States which, even if they had ratified the convention in good faith, might be induced by force of circumstances or by reasons of internal policy to betray it and thus compromise the achievement of its objectives. Periodic reports could obviously be useful, but they were not sufficient, as they did not make it possible to intervene at the time when a violation took place. It was true that the Charter—which had been conceived in an outmoded spirit of conservatism since it seemed to acquiesce in the continuance of the system of trusteeship—provided only for periodical reports on dependent Territories, but, since the drawing up of the Charter, changes had taken place and the need for resort to direct testimony had been realized. In the case of the present convention, which was designed to protect individuals against racial discrimination and provide for their defence, the victims of such discrimination should be able to make themselves

heard at the international level by presenting petitions.

59. Obviously, States desired to remain free and to retain the power of judgement which they regarded as an attribute of their sovereignty, and the very expression "international control" seemed suspect to them. When, as often happened, however, an urgent situation arose in which they were not themselves involved, they were the first to call for intervention by international organizations; but, unfortunately, once the situation had become critical it was already too late to take action. The wisest course, therefore, was to take precautions in advance by adopting the implementation provisions which were essential if legal obligations rather than mere moral obligations were to be imposed on States. The difference between legal and moral obligations was that the former carried means of enforcement. There was nothing in the proposals before the Committee that jeopardized the sovereignty of States, for those proposals called merely for the institution of good offices and conciliation machinery.

60. Mr. MOMMERSTEEG (Netherlands) considered that the implementation provisions of the draft International Convention on the Elimination of All Forms of Racial Discrimination which were under discussion in the Committee and in connexion with which a number of proposals had been made, particularly by the Philippines (A/C.3/L.1221) and Ghana (A/C.3/L.1274/Rev.1), formed an integral part of the whole work of the United Nations in promoting respect for human rights and fundamental freedoms. Any decision on them should therefore be taken in the context of the broad framework of United Nations activities in the field of human rights and particularly the implementation of the draft international covenants.

61. Numerous international instruments—conventions, declarations and recommendations—dealing with human rights had been formulated in order to satisfy the desire of the international community for basic legal standards and were now incorporated in international law. However, the proclamation of such standards was not generally considered to provide a sufficient guarantee of their observance, and the creation of effective safeguards to ensure the protection and enjoyment of the rights proclaimed was recognized as an indispensable part of the task of the United Nations in the fields of human rights and fundamental freedoms. It appeared to be that consideration which had prompted the delegations of the Philippines and Ghana each to take the valuable initiative of proposing a set of articles relating to measures of implementation for addition to the provisions of the draft Convention.

62. There did already exist international machinery for the implementation of international instruments: a case in point was the system of periodic reports based on the Universal Declaration of Human Rights, which was not only a source of information and a valuable incentive to Governments' efforts to protect human rights and fundamental freedoms, but also a yardstick of the progress made while awaiting the adoption and entry into force of the Covenants on Human Rights. There was also the example of the

United Nations Fact-Finding Mission to South Viet-Nam established by the General Assembly at its eighteenth session to investigate the alleged violations of human rights by the Government of the Republic of Viet-Nam in its relations with the Buddhist community of that country; in his delegation's view fact-finding was one of the most effective means of dealing with violations of human rights. However, the drafts before the Committee provided for the establishment of new machinery: thus, in the case of the draft Covenant on Civil and Political Rights it was proposed to establish a system of periodic reporting and to set up a human rights committee to which States Parties might submit complaints concerning failure to give effect to any provisions of the Covenant; in the case of the draft Covenant on Economic, Social and Cultural Rights it was proposed to set up a system of periodic reports from States Parties, and in the case of the draft Convention on the Elimination of All Forms of Racial Discrimination there were the proposals made by the delegations of the Philippines (A/C.3/L.1221) and Ghana (A/C.3/L.1274/Rev.1), while the proposal of the delegation of Costa Rica (A/5963) calling for the creation of the post of United Nations High Commissioner for Human Rights (agenda item 98) should also be mentioned in that connexion. He wondered whether it was really desirable to establish several similar institutions each designed to ensure the implementation of a separate international instrument. Was there not a danger, in view of the growing number of international instruments, that that might lead to organizational complications, and would not it be preferable to consider the possibility of creating only one single machinery for the implementation of all the international instruments in the field of human rights, which raised the same problems of application? The Netherlands delegation was aware, of course, that the concentration and co-ordination of implementation activities, however desirable it might be in theory, might not be attainable at present.

63. Broadly speaking, it appeared that the measures of implementation involved three different techniques, each of which had its merits: the system of periodic reports provided for in the Philippine and Ghanaian texts was undoubtedly the least controversial method but was of only limited value, since reports submitted by States tended to paint too rosy a picture. The system of complaints proposed by the Philippines (A/C.3/L.1221) and Ghana (A/C.3/L.1274/Rev.1) provided that, if a matter was not adjusted to the satisfaction of both the complaining State and the State complained against, either by bilateral negotiations or by any other procedure open to them, either State should have the right to refer the matter to a committee, which in the Philippine text was a good offices and conciliation committee and in the Ghanaian text a fact-finding committee, conciliatory powers being vested in an *ad hoc* commission appointed by the chairman of the committee. Under that system, the case might be referred to the International Court of Justice as a last resort; his delegation could not but approve such a provision but it would be effective only if the State complained of or the State lodging a complaint could submit the dispute to the Court without first having to obtain the consent of the

other State. However useful that system might be, it was not entirely satisfactory, for intervention by States to redress violations of human rights was usually of a political nature, and its value and effectiveness suffered accordingly.

64. The last system—that of petitions from individuals, groups and non-governmental organizations—was in his delegation's opinion the most valuable and effective. He therefore welcomed the provision in article 16 of the Philippine text (A/C.3/L.1221) empowering the good offices and conciliation committee to receive petitions addressed to the Secretary-General from any person or group of individuals claiming to be the victims of a violation of the Convention by any State Party, or from any non-governmental organization in consultative status with the Economic and Social Council. He approved the optional nature of the article, which made it a condition for the receipt of petitions by the committee that the State Party complained of should declare that it recognized the competence of the committee to receive such petitions. He hoped that, in due course, many States would be convinced of the great merits of the right of individual petition. His delegation had submitted an amendment (A/C.3/L.1270) which did not affect the principle laid down in the Philippine article 16 but which would make it possible to screen the petitions and eliminate those that were ill-founded or that constituted an abuse of the right of petition. The original Ghanaian text had included provisions on the right of petition which had largely corresponded to his delegation's ideas, but the revised version of that text had considerably changed the proposed procedure in the matter.

65. In conclusion, he wished to express clearly the firm hope of his delegation that at the current session the Committee would complete the Convention on the Elimination of All Forms of Racial Discrimination, including the measures of implementation, without which a convention could hardly amount to anything more than a declaration.

66. Mr. KOCHMAN (Mauritania) said that his delegation could not yet give a final opinion on any of the amendments, since the measures of implementation were still purely theoretical. However, it unreservedly supported article 1 of the Philippine proposals (A/C.3/L.1221).

67. He might have occasion to speak again later.

68. Mr. KIRWAN (Ireland) said that, in his delegation's opinion, an instrument as important as the draft International Convention on the Elimination of All Forms of Racial Discrimination should incorporate strong and meaningful articles of implementation. His delegation acknowledged the validity of the argument that articles of implementation were superfluous, since in ratifying the Convention the States Parties *ipso facto* undertook to implement its provisions; but it considered that the United Nations should not hesitate to provide the additional safeguard of an international guarantee by establishing suitable collective machinery to ensure that the rights and freedoms prescribed in the Convention were respected. By so doing it would make a formidable advance, and would be following the lead of other

international organizations which recognized the principle of an international guarantee; the Constitution of the ILO, for instance, provided for a system of periodic reports, a complaints procedure, and the possibility of referring certain disputes to the International Court of Justice.

69. The proposals put forward by the Philippines (A/C.3/L.1221) were best calculated to make the Convention a meaningful instrument, although there was room for revision on points of detail; his delegation would also take into account the amendments submitted by the delegation of Ghana (A/C.3/L.1274/Rev.1).

70. Mr. CHKHIKVADZE (Union of Soviet Socialist Republics) expressed the keen hope that the Committee would equip the International Convention on the Elimination of All Forms of Racial Discrimination with effective measures of implementation as quickly as possible. His delegation had always done its utmost towards the final elimination of colonialism, of which racism was one of the most atrocious expressions. It had been very glad to hear certain delegations, especially that of the United Kingdom, state during the discussion of the substantive articles of the Convention that they attached great importance to its speedy adoption.

71. Yet the adoption of a convention, however, perfect it might be, was not enough. Experience had shown that the effectiveness of such instruments depended on the measures laid down for their implementation at the international level. So long as the economic and social conditions that gave rise to racism persisted in certain States, manifestations of racial discrimination were only to be expected. If all States adopted practical measures wherever they were needed to eliminate the conditions that gave rise to racism, mankind would see that monstrous and shameful aberration gradually disappear. It was essential that the General Assembly should adopt at its current session the measures of implementation for the Convention on the Elimination of All Forms of Racial Discrimination, and all delegations must do their best to that end. In that connexion, his delegation had been somewhat surprised to hear the Ghanaian representative say that some delegations did not wish the measures of implementation to be adopted at the present stage.

72. His delegation's position on the subject of the measures of implementation was clear and consistent: it considered that those were the articles which would ensure respect for the Convention, which was based on the Declaration on the Granting of Independence to Colonial Countries and Peoples and the Declaration on the Elimination of all Forms of Racial Discrimination.

73. The articles of implementation must be clear and precise, and must raise no difficulties likely to delay their adoption. Furthermore they should be of reasonable length, so as not to unbalance the Convention. They should be based on respect for the principle of the sovereignty of States and the principle of non-interference in the domestic affairs of States, both of which were embodied in the United Nations Charter. His delegation advocated the establishment

of a special organ composed of States Parties to the Convention, which should work in a spirit of international co-operation to enforce the Convention. It was in favour of a system of reports from the States Parties to the Convention on the legislative, administrative, legal, economic and social measures taken to ensure the elimination of all forms of racial discrimination. Disputes arising out of the application of the Convention should be settled in the same spirit as all international disputes, i.e., with due regard for the views of States and for their sovereignty.

74. His delegation might have occasion to submit amendments at a later stage. It was prepared to cooperate with all delegations, particularly the sponsors of amendments, and hoped that all delegations would be moved by the same spirit of conciliation so that the General Assembly might adopt unanimously, at its twentieth session, the entire Convention on the Elimination of All Forms of Racial Discrimination.

75. Mr. BAROODY (Saudi Arabia) said that he wished to state his delegation's general position on the measures of implementation of the Convention on the Elimination of All Forms of Racial Discrimination. It would be tempting but unrealistic to leave it to States to make their own arrangements for safeguarding the rights of their nationals. Racial discrimination existed even in States which had reached a very advanced stage of development and whose constitutions proclaimed the equality of all men. He agreed with the USSR representative that care must be taken not to encroach upon the sovereignty of States, and that a multilateral treaty must avoid any interference in the domestic affairs of States.

76. In a world still beset by the cold war there were certain dangers involved in giving each signatory State the freedom to lodge a complaint against another signatory State. A complaint from a private individual, whether well-founded or not, might serve as a pretext for one State to accuse another, and for interference in the affairs of other countries. His delegation had given thought to the problem and had mentioned its apprehensions to the Ghanaian delegation, which had taken them into account in its draft article XII. That article was designed to protect, not so much the individual injured by another individual—who could in principle resort to the law courts, although that possibility was sometimes problematical—as the individual whose rights were violated by the authorities, especially in multi-racial societies. Under that article, the injured individual could complain to the national committee which would be set up in every signatory State and which would be composed of independent persons having no official connexion with the Government. Those national committees would submit to the Secretary-General certified copies of their registers, and would protect the rights of private persons. On the other hand, he opposed the establishment of the eighteen-member committee provided for in the Ghanaian amendment. Without a screening system, the committee might be overwhelmed by an avalanche of complaints; moreover it might be unfamiliar with the various social systems prevailing in the different signatory States and, for all its goodwill and conscien-



tiousness, would probably not be able to satisfy all complainants, however well-founded their complaints. Lastly, its eighteen members might give way to pressure or to political feeling. In his opinion the proposed national committees offered an adequate guarantee, and to increase the number of organs and remedies might mean reducing the number of accessions to the Convention. In any case, the mere existence of the national committees would have the effect of making Governments more respectful of the rights of their nationals, for they would not wish their reputations to be sullied by reports to the

Secretary-General. Thus States in which coloured people suffered discrimination in such matters as housing, employment or remuneration would be keen to put matters right before their nationals complained to the national committees and the latter reported to the Secretary-General.

77. He would speak again later in order to submit some amendments to the draft measures of implementation.

The meeting rose at 6.20 p.m.