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Chairman: Mr. Jiří NOSEK (Czechoslovakia).

AGENDA ITEM 58

Draft international covenants on human rights (A/2714, A/2686, chapter V, section I, E/2573, A/C.3/S.74, A/C.3/L.406, A/C.3/L.407, A/C.3/L.408) (continued)

PROCEDURE FOR CONSIDERATION OF THE DRAFT COVENANTS (A/C.3/L.406, A/C.3/L.407, A/C.3/L.408) (concluded)

1. The CHAIRMAN drew the attention of members of the Committee to the proposals submitted by the Afghan delegation (A/C.3/L.406) concerning the procedure to be adopted for consideration of the draft international covenants on human rights.
2. Mr. TUNCEL (Turkey) wished to ask the Afghan representative three questions. First, the Afghan delegation had used the word "discussed" in its first two proposals, while in the third it had used the word "reading". He wished to know what distinction it had wished to make between the two words. Secondly, the Afghan delegation had referred in the three proposals to the instruments which the Committee proposed to study as "covenants". However, in the annexes to the report of the Commission on Human Rights (E/2573) the instruments were called "draft covenants". The latter expression might perhaps be retained in order to use the wording of the report. Lastly, he asked whether the Afghan delegation, by suggesting in its third proposal a first reading of the draft covenants, envisaged only the reading of annex I, which did not include the provisions relating to reservations, or whether it considered that the first reading should also apply to annex II.
3. Mr. PAZHWAQ (Afghanistan) said that in its first two proposals the Afghan delegation had merely suggested that the draft covenants should be examined by the Third Committee at the current session. It did not wish to make any proposal as to the form such an examination should take, and had therefore selected as general a word as possible—"discussed". The word "draft", which appeared in the report, had been omitted inadvertently and he asked the Secretariat kindly to amend the final text. In using the expression "first reading" the Afghan delegation had wished to indicate

clearly that, when the Third Committee examined the draft covenants, it should not confine itself to a general debate. It had not, however, in any way wished to exclude the possibility of representatives, if they so wished, making general remarks during the first reading, especially on the parts which had not yet been discussed or on the new articles contemplated.

Mr. Nuñez (Costa Rica) took the Chair.

4. Mr. ABDEL GHANI (Egypt) suggested that the words "section by section" in the third Afghan proposal should be replaced by "part by part" in order to use the wording of annex I of the report of the Commission on Human Rights.
5. The CHAIRMAN said that the Australian amendment¹ to the third Afghan proposal, and the additional proposal suggested by the United Kingdom² would be distributed shortly.
6. Mr. PAZHWAQ (Afghanistan) recalled that at the preceding meeting the Haitian representative had moved the closure of the procedural debate.
7. Mr. ROY (Haiti) said that, as amendments were being submitted, he would withdraw his motion. He reserved the right, however, to make the same proposal again at a later stage in the discussion.
8. The CHAIRMAN suggested that the first two Afghan proposals, to which it appeared no objection had been raised, should be put to the vote.
9. Mr. RODRIGUEZ FABREGAT (Uruguay) did not see how the members of the Committee could vote on the two proposals until they knew what amendments had been proposed to the third. He suggested that the Secretary should immediately read the amendments in question.
10. Mr. VAKIL (Secretary of the Committee) read out the two amendments.
11. Mr. BAROODY (Saudi Arabia) asked whether the United Kingdom delegation considered that the meetings devoted to procedure were part of those devoted to the examination of the draft covenants.
12. Mrs. ELLIOT (United Kingdom) replied in the negative. Her delegation hoped that, when the Committee began the substantive discussion, it would not devote more than half of the meetings it still had to hold to the examination of the draft covenants.
13. Mr. HOOD (Australia) wished to explain why his delegation had submitted its amendment to the third Afghan proposal.
14. First, the Australian delegation suggested the expression "a first reading" instead of "the first reading" in order not to prejudge any decisions which the General Assembly might take on the procedure to be following in examining the draft covenants.

¹ Subsequently issued as document A/C.3/L.408.

² Subsequently issued as document A/C.3/L.407.

15. Secondly, it proposed that the words "section by section"—or the words "part by part" suggested by the Egyptian representative—should not be used. It felt that it would be better merely to indicate the Committee's intentions—which might be to begin by a general debate—without explaining in detail what would happen should the general debate be completed before the end of the period set aside for the examination of that item of the agenda.

16. Mrs. ELLIOT (United Kingdom) emphasized how necessary it was for the Committee to fix a time limit for the examination of the draft covenants; if it did not do so it might not be able to examine any of the other important items on its agenda.

17. Mr. CHENG (China) announced that his delegation was prepared to vote for the first two Afghan proposals. He wished to make some comments on the third proposal. His delegation was alarmed at the suggestion that the draft covenants should be considered section by section, or part by part. The three annexes to the report of the Commission on Human Rights contained eleven parts, as well as the provisions regarding reservations, the right of property and the right of petition. If the Committee was to hold a general discussion on each of those parts, it would require considerable time, particularly as certain articles, such as article 1 of part I (E/2573, annex I), relating to the right of peoples to self-determination, might give rise to a long debate likely to occupy the Committee for two or three weeks. Article 5 of the draft covenant on economic, social and cultural rights might also require prolonged consideration by the Committee, and the same was true of the three paragraphs of article 4 of the draft covenant on civil and political rights, relating to derogations, which might lead to a procedural debate on the question whether or not it should be submitted to the Sixth Committee. It might be suggested that the articles should be grouped by subject, but he feared that in that case the Committee would be involved in a long debate on whether or not they should be so grouped, and how it should be done. If the Committee had more time at its disposal, he would see no objection to the proposed procedure, but if the Committee was to devote only half of its remaining meetings to consideration of the question, he did not think that the third Afghan proposal could stand.

18. With regard to the Australian amendment (A/C.3/L.408), the Chinese delegation did not think that there should be any uncertainty as to the total number of proposed readings, and would prefer to keep to the suggestion that there should be two in all, as put forward by the Commission on Human Rights. The Chinese delegation therefore made a formal proposal that the word "a" before the words "first reading" in the Australian proposal should be replaced by the word "the".

19. Finally, in the addition proposed by the United Kingdom (A/C.3/L.407), he suggested replacing the word "consideration" by the words "the first reading".

20. Mr. PAZHAWAK (Afghanistan) accepted the amendments put forward by the United Kingdom and Egypt.

21. The Australian proposal proved to him that his fears that the Third Committee's work might be delayed had not been unfounded. The use of the word "a" would suggest that there might be more than two readings. The report of the Commission on Human Rights

(E/2573) showed that some delegations had already made a similar suggestion. The Australian delegation had also proposed a general discussion. As he had already pointed out, his delegation was not seeking to prevent the statement of general considerations. The primary purpose of the first reading was to ascertain the views of the largest possible number of delegations, so that at the next session the preparation of the texts in their final form might go forward. It was very important that the first reading should take place in the current year and a mere general discussion could not be considered as a first reading.

22. In the Afghan delegation's opinion, the Australian proposal would not in any way expedite the Committee's work and might even delay it considerably. He could not, therefore, accept it. He hoped that the Australian delegation would not doubt that he was concerned only to facilitate and expedite the Committee's work; that was why he thought it would be a pity if Committee members started a minor procedural battle and some of them adopted obstructive tactics.

23. Mr. GALVEZ (Argentina) thought that the Australian proposal (A/C.3/L.408) was to some extent an amendment to the three Afghan proposals. It was, however, couched in very flexible terms, as it referred only to beginning the consideration of the draft covenant with a general discussion, without prejudicing the form which the Committee's work might later take.

24. Mr. AZKOUL (Lebanon) thought that the Australian proposal was based on false premises: it seemed to suggest that the ninth session of the General Assembly might be prolonged at will and that the Third Committee could go on sitting indefinitely. Contrary to the impressions which might be gained from that text, there would in actual fact be either a first reading or a general discussion, but, in view of the lack of time, certainly not both: there was need for precision on that subject. The Afghan proposal plainly suggested a first reading without a separate general discussion.

25. He would vote against the Australian proposal, and for the Afghan proposal, because he was in favour of a first reading.

26. Miss MARAS (Cuba) approved of the the first two Afghan proposals (A/C.3/L.406); she would decide on the third when the Committee came to a vote.

27. With regard to the United Kingdom proposal (A/C.3/L.407), she thought that it would be better to delete the words "not more than". She agreed with the Chinese proposal that the words "the consideration" should be replaced by the words "the first reading" in the United Kingdom text.

28. Mr. BAROODY (Saudi Arabia) thought that the Chinese sub-amendment complicated the question. He would prefer to retain the words "the consideration", which would cover both the general discussion and the first reading.

29. Mrs. ELLIOT (United Kingdom) accepted the Cuban representative's amendments.

30. On the other hand, she could not accept the Chinese representative's suggestion that the words "the consideration" should be replaced by the words "the first reading".

31. Mr. CHENG (China) wished to point out that, to his mind, the first reading would include a general discussion. He therefore suggested deletion of the word

"beginning" from the English text of the Australian proposal.

32. Mr. HOOD (Australia) explained that he was concerned solely with speeding up the Committee's work. He admitted, however, that it was difficult for the Committee to undertake a first reading and a general discussion at the same time.

33. Mr. ROY (Haiti) thought that the time had come for the Committee to shoulder its responsibilities. The general debate on the draft covenants had already taken place at previous sessions. The Committee should proceed to a first reading. Personally, he thought that the Australian text was not an amendment to the Afghan proposal, but a separate proposal. It did not fit the definition of an amendment as given in the last sentence of rule 131 of the General Assembly's rules of procedure. It should therefore not be put to the vote before the Afghan proposal.

34. The CHAIRMAN noted that the members of the Committee agreed that the text proposed by Afghanistan (A/C.3/L.406) actually contained three separate proposals. He would, therefore, put them to the vote separately.

The first proposal was adopted by 52 votes to none, with 1 abstention.

The second proposal was adopted by 51 votes to none, with 1 abstention.

35. The CHAIRMAN asked the Committee to decide whether or not the Australian proposal (A/C.3/L.408) should be considered as an amendment to the third Afghan proposal.

36. Mr. CHENG (China) reviewed the definition of an amendment in rule 131 of the rules of procedure. The Australian text was not an amendment, as it was intended to replace the third Afghan proposal.

37. He also drew the Committee's attention to rule 132 of the rules of procedure. If the Australian text was not considered as an amendment, the third Afghan proposal, which had been submitted first, should be put to the vote first.

38. Mr. HOOD (Australia) maintained that his text was an amendment and complied with the definition given in the last part of rule 131 of the rules of procedure.

39. Mr. PAZHWAQ (Afghanistan) thought, like the Haitian representative, that the Australian motion was not an amendment. He emphasized that the text, if adopted, would make it impossible to have a first reading of the draft covenants at the current session.

40. Mr. RODRIGUEZ FABRIGAT (Uruguay) thought that, if the text of the Australian proposal were examined closely, the Committee could not but note that it was clearly an amendment within the meaning of rule 131 of the rules of procedure, for by implication it called for the addition of certain points and the deletion of parts of the third Afghan proposal. He would vote for the text, regardless of whether it was considered an amendment or not, because he wanted to have a clear and full general discussion of the draft covenants.

41. The CHAIRMAN put to the vote the question whether the Australian proposal (A/C.3/L.408) should be considered as an amendment to the third proposal submitted by Afghanistan (A/C.3/L.406).

It was decided by 27 votes to 15, with 5 abstentions, that the Australian proposal should be considered as an amendment.

42. Mr. PAZHWAQ (Afghanistan) asked for a separate vote on the word "a", the first word of the Australian amendment.

43. Mr. CHENG (China) proposed as a sub-amendment that the word "a" should be replaced by the word "the" and that the word "beginning" in the English text should be deleted.

44. Mr. BAROODY (Saudi Arabia) called for a separate vote on the words "beginning with a general discussion".

45. Mr. PAZHWAQ (Afghanistan) withdrew his proposal, inasmuch as the first Chinese sub-amendment would enable the Committee to achieve the same result.

46. Mr. HOOD (Australia), supported by Mr. RODRIGUEZ FABREGAT (Uruguay), pointed out that the first Chinese sub-amendment in effect restored the original text of the third Afghan proposal.

47. Mr. CHENG (China) explained the purpose of his sub-amendment. The use of the word "the" instead of the word "a" would confirm the fact that there would actually be two readings, as had been requested by the Commission on Human Rights in paragraph 39 of its report (E/2573). The word "a" should be set aside so that it would be clear that there would be only two readings.

48. Mr. BAROODY (Saudi Arabia) pointed out, in reply to the Australian representative, that the matter at issue was a sub-amendment to the Australian amendment and that the third Afghan proposal was not involved. It would be absurd to delete the word "a" without replacing it by something.

49. Mr. PAZHWAQ (Afghanistan) said that, if the Committee did not vote on the Chinese sub-amendment, he reserved the right to ask for a separate vote on certain parts of the Australian amendment.

50. He asked the United Kingdom representative whether the word "a" could be deleted from the English text of the amendment without inserting another word in its place.

51. Mrs. ELLIOT (United Kingdom) said that the sentence in question could not start with the words "first reading"; those words had to be preceded in the English text by either the word "a" or the word "the".

52. Mr. JUVIGNY (France) thought that a sub-amendment should be designed to modify the amendment to which it related and not indirectly to restore the original text of the proposal being amended. The Committee should adhere to that rule. Otherwise there would be nothing to prevent it from submitting new sub-amendments to restore the text of an amendment and the like. The Third Committee might set a dangerous precedent if it agreed to consider the Chinese proposal as a true sub-amendment.

53. Mr. PAZHWAQ (Afghanistan) pointed out that, if the Australian amendment were rejected as a whole, the text of the Afghan proposal in its original form would remain. What held true for the whole applied also to each of the parts. He therefore did not see how the difficulty to which some delegations had referred would arise.

54. Moreover, it was possible that, owing to changes made through amendments and sub-amendments, a text might apparently lose all meaning. In the United Nations it was customary, when purely drafting problems arose, to allow the Secretariat to prepare the final draft of a text, taking into account the views expressed during the debate.

55. He thought that, if the proposed Chinese sub-amendment were adopted, the word "the" of the original text would automatically be retained.

56. Mr. AZKOUL (Lebanon) reminded the Committee that it had decided that the Australian delegation's proposal (A/C.3/L.408) was an amendment to the Afghan proposal (A/C.3/L.406). The Australian representative had explained that his proposal merely consisted of an amendment to, an addition to and a deletion from the original text. In the circumstances the normal procedure would be to put to the vote in turn the three parts of the amendment concerned—the substitution of the word "a" for the word "the", the addition of the words "beginning with a general discussion" and the deletion of the words "part by part". That would meet the wishes of delegations which wanted a vote in parts and it was a logical consequence of the previous decision that the Australian proposal was an amendment. He therefore proposed that that procedure should be followed.

57. The CHAIRMAN put the procedural proposal submitted orally by the Lebanese representative to the vote.

The proposal was adopted by 19 votes to 2, with 23 abstentions.

58. The CHAIRMAN therefore put to the vote the first part of the Australian amendment (A/C.3/L.408), whereby the word "the" was to be replaced by the word "a".

The first part of the Australian amendment was adopted by 25 votes to 15, with 10 abstentions.

59. Mr. CHENG (China) asked for a separate vote on the word "beginning" in the second part of the amendment.

60. The question was of fundamental importance. As it stood, the addition proposed by the Australian delegation would imply that the first reading might include something more than the general discussion. The deletion of the word "beginning" would limit the first reading to the general discussion.

61. Mr. RODRIGUEZ FABREGAT (Uruguay) said that he would like to know how the Spanish text of the proposal would read if the deletion suggested by the Chinese representative were accepted.

62. Mr. JUVIGNY (France) raised the same question with reference to the French text.

63. Mr. BAROODY (Saudi Arabia) pointed out that the proposed deletion would involve some changes in punctuation.

64. Mr. CHENG (China) replied that the Secretariat could take the necessary steps to modify the punctuation and the Spanish and French texts.

65. Mr. ROY (Haiti) said that there was no justification for the Chinese delegation's request for a separate vote. It would be better to abide strictly by the procedure which the Lebanese representative had proposed and the Committee had accepted.

66. Mr. BAROODY (Saudi Arabia) and Mr. JIMENEZ (Philippines) thought that the Committee should meet the Chinese representative's wishes.

67. Mr. HOOD (Australia) was not sure that a single word could be considered "part" of a proposal or of an amendment in the sense of rule 130 of the rules of procedure.

68. Mr. EL-FARRA (Syria) felt that the provisions of rule 130 were quite applicable to the case in point.

69. Mr. JIMENEZ (Philippines) emphasized that the point raised by the Chinese representative involved an extremely important question of substance.

70. Mr. CHENG (China) formally proposed that the word "beginning" should be deleted from the English text of the addition constituting the second part of the Australian amendment.

71. The CHAIRMAN put to the vote the proposal submitted orally by the Chinese representative.

The proposal was rejected by 25 votes to 5, with 12 abstentions.

72. The CHAIRMAN put to the vote the second part of the Australian amendment (A/C.3/L.408), the addition of the words "beginning with a general discussion".

The second part of the amendment was adopted by 30 votes to 7, with 13 abstentions.

73. The CHAIRMAN put to the vote the third part of the Australian amendment (A/C.3/L.408), involving the deletion of the words "part by part", which the Afghan representative had agreed, at the suggestion of the representative of Egypt, to use in place of the words "section by section".

The third part of the amendment was adopted by 22 votes to 16, with 7 abstentions.

74. The CHAIRMAN put the third Afghan proposal (A/C.3/L.406), as modified by the Australian amendment which had just been adopted, to the vote.

At the request of Mr. Pashwak (Afghanistan), a vote was taken by roll-call.

Pakistan, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Peru, Poland, Sweden, Turkey, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Argentina, Australia, Belgium, Brazil, Byelorussian Soviet Socialist Republic, Canada, Chile, Colombia, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, France, Guatemala, Iceland, Israel, Luxembourg, Mexico, Netherlands, New Zealand, Norway.

Against: China, Egypt, Haiti.

Abstaining: Pakistan, Philippines, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Yugoslavia, Afghanistan, Bolivia, Burma, Costa Rica, Ethiopia, Greece, Honduras, India, Indonesia, Iran, Iraq, Lebanon.

The proposal, as amended, was adopted by 31 votes to 3, with 18 abstentions.

75. The CHAIRMAN put to the vote the United Kingdom proposal (A/C.3/L.407), as modified by the amendment submitted orally by the representative of Cuba and accepted by the representative of the United Kingdom.

The proposal, as amended, was adopted by 38 votes to none, with 7 abstentions.

76. Mr. PAZHwak (Afghanistan) observed that, in accordance with the decision just taken, the first reading would begin with a general discussion. His delegation reserved the right to raise, at the end of the general discussion, the question how the first reading of the draft covenants should be continued. The meaning of the term "first reading" had not, in fact, been defined.

77. Mrs. TSALDARIS (Greece) said that she had abstained from voting on the Australian amendment and on the third Afghan proposal because the discussion had left her very confused and she had not been able to follow its convolutions. She congratulated the Chairman on having been able, like Theseus, to guide the Committee out of the labyrinth in which it was in danger of losing itself.

78. Mr. ABDEL GHANI (Egypt) said that he had voted against the Australian amendment because the replacement of the word "the" by the word "a" appeared to him to be contrary to the intention of the four delegations whose suggestion had been taken up by the Commission on Human Rights (E/2573, para. 39). They had intended that there should be a maximum of

two readings. The text adopted appeared to indicate a desire to give the draft covenants more than two readings.

79. Mr. CHENG (China) said that he had voted against the Australian amendment because it was not precise. The text adopted was vague with regard to the number of readings which were to take place; it was also vague with regard to the method to be followed for the examination and adoption of the draft covenants. No one knew what was to happen once the general discussion was concluded. It was for that reason that the Chinese delegation had proposed that the word "beginning" should be deleted and that the first reading should consist solely of a general discussion. The matter of the procedure to be followed was very important for the Committee's future work and he had felt it necessary to vote against the text proposed by the Australian delegation.

80. Mr. PAZHwak (Afghanistan) proposed that the meeting should be adjourned.

It was so decided.

The meeting rose at 6.40 p.m.