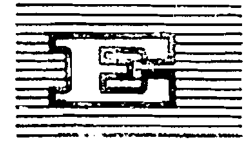

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SESSIONAL WORKING GROUP ON THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

SUMMARY RECORD OF THE 8th MEETING

Held at Headquarters, New York,
on Thursday, 17 April 1980, at 10.30 a.m.

Chairman: Mr. NAGY (Hungary)

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

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The meeting was called to order at 10.55 a.m.

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

German Democratic Republic (E/1978/8/Add.8 and Corr.1)

1. Mr. LAMMERZAHL (Observer for the German Democratic Republic), introducing the report of the German Democratic Republic, said that the safeguarding of the rights covered by articles 6 to 9 of the International Covenant on Economic, Social and Cultural Rights had been a matter of course in his country since the first days of its existence. The protection of the rights in question had been enhanced in keeping with the country's growing economic potential. The fact that there was no unemployment in the German Democratic Republic could be regarded as proof of the efficiency of his Government's social policies, which consisted in raising the material and cultural living standards of the population. The focus of those policies was the well-being of the people and the free development of human creativity. Social ownership of the means of production was the basis of society; it was thus possible to use the means of production in a planned and efficient manner. At the same time, economic and social problems could be considered in conjunction with each other.

2. Article 24, paragraph 1, of the Constitution of the German Democratic Republic established the right of every citizen to work and freely to select his employment in accordance with socialist requirements and his personal qualifications. The Labour Code laid down, among a whole series of rights, the right of the working people to participate in the planning and management of enterprises. The labour legislation guaranteed that the working people were permanently involved in a conscious manner in the work process. The purpose of the legislation in question was, inter alia, to develop and use rationally the social capacity to work, and to create conditions that promoted pleasure in and dedication to work, thus enabling the working people to achieve a high performance in the interests of society as a whole and of the individual.

3. Mr. HARASHIMA (Japan) drew attention to the first paragraph on page 4 of the report of the German Democratic Republic (E/1978/8/Add.8), which contained the statement that in the German Democratic Republic higher labour productivity led to improved working and living conditions and to shorter working hours. He also noted that information regarding working hours was given on page 13, and he requested further information regarding the trend in that respect in recent years.

4. In connexion with the statement on page 5, paragraph B (5) that in the event of termination of employment the enterprise was obliged to assist the employee concerned in the procurement of another reasonable job, he asked how that system functioned.

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5. Mr. SALMENPERÄ (Finland) drew attention to the reference on page 3, paragraph B (1) to the right to pay according to the quality and quantity of the work performed. He wished to know how that right applied to handicapped persons.

6. He requested further details about the transfer contracts mentioned on page 5, paragraph B (5), particularly in relation to the type of work offered under such contracts.

7. Mr. RANGACHARI (India) asked whether the categories of persons listed at the bottom of paragraph B (5) on page 5 were included in the group of persons entitled to special protection against termination of employment that was mentioned in the middle of the same paragraph.

8. Moreover, with regard to the period of 78 weeks mentioned on page 17, paragraph V (2) (6) in connexion with the question of social benefits in the case of incapacity for work due to illness, he asked whether there was any provision for persons whose incapacity lasted for a period exceeding 78 weeks. He also wished to know what percentage of the total work force was covered by social security.

9. Mr. DIA (Senegal), referring to the first report of the International Labour Organisation (ILO) (E/1978/27), drew attention to the reference made to collective farms in the fourth paragraph on page 25. His country was establishing rural communities that would be self-managing and would not be covered by the Labour Code. He wished to know whether the system in the German Democratic Republic was similar and requested further information in that respect.

10. Mr. SVIRIDOV (Union of Soviet Socialist Republics) said that the information supplied by the German Democratic Republic showed clearly that that country was effectively implementing the provisions of the Covenant. The report demonstrated convincingly that that country's legislation was in full accordance with the provisions of the Covenant. In the German Democratic Republic a socialist economic system had been established that ensured social ownership of the means of production. Under that system the enjoyment of human rights was guaranteed by appropriate bodies that monitored the implementation of the country's laws. The exceptionally democratic nature of the socialist system could be seen from section II of the report, dealing with the right to work. As an example of the way in which the report supplied information relevant to the articles of the Covenant, he wished to draw attention to the ways of ensuring full employment that were listed at the top of page 4. Another advantage of the report was that it not only described the situation in the German Democratic Republic but also quoted the relevant provisions of the Labour Code.

11. Since the mid-point of the United Nations Decade for Women was approaching, he wished to request additional information regarding the protection of women's rights in the German Democratic Republic.

12. Mr. GORITZA (Romania) said that both the report submitted by the German Democratic Republic and the introductory statement clearly reflected the importance that that country attached to the implementation of the provisions of the Covenant. The manner in which the Labour Code had been drawn up and adopted demonstrated, once again, the democratic way in which the Government endeavoured to involve all citizens in the adoption of measures concerning their fundamental rights. Thus the new Labour Code undoubtedly reflected the interests of all the citizens of the German Democratic Republic, and it further developed the essential fundamental human rights.

13. Mr. SAMSON (International Labour Organisation) said that since the publication of the first report of the ILO (E/1978/27), the German Democratic Republic had ratified the Human Resources Development Convention, 1975, which was relevant to article 6 of the Covenant, and the Covenant concerning Maternity Protection, Revised 1952, which was relevant to article 9 of the Covenant.

14. With regard to article 6 of the Covenant, in 1979 the ILO Committee of Experts had considered reports on both the Employment Policy Convention, 1964 (No. 122), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The Committee of Experts had requested additional information regarding certain technical matters relating to implementation of the first of those Conventions and had also requested information concerning any further developments relating to freedom of choice of employment for graduates. With regard to the implementation of the second Convention, and in the light of information provided by the Government of the German Democratic Republic concerning certain provisions of the Seafarers' Code of 2 July 1969, the Committee of Experts had requested information concerning any court decisions that might indicate the exact effect of those provisions. It had, furthermore, requested information regarding the provisions in the new Labour Code concerning immediate dismissal on grounds of serious breaches of socialist discipline or civic duties.

15. With regard to article 7 of the Covenant, the Committee of Experts had indicated that where equal opportunity for promotion was concerned, additional information on the application of the principles of the Covenant would be desirable. In that connexion, he drew attention to paragraph 18 of the introduction to the second report of ILO (E/1979/33).

16. With regard to article 8 of the Covenant, certain questions had been raised by the Committee of Experts in relation to standards concerning freedom of association (E/1978/27, p. 25). In 1979 the Committee of Experts had requested further clarification concerning the right of organization of members of collective farms and the right to strike. Moreover, referring to the Labour Code and the national Constitution, the Committee of Experts had observed that national legislation did not appear to allow workers' organizations which attempted to establish themselves independently of the Confederation of Free German Trade Unions to have a legal existence as a trade union.

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17. Mr. LAMMLERZAHL (Observer for the German Democratic Republic), replying to the questions raised by the members of the Working Group, said that, in connexion with the first question raised by the representative of Japan concerning hours of work, a decision to reduce working hours had been adopted in 1979 since the economy had reached a point in its development where such a measure had become possible. Whereas the working people had formerly had a six-day working week, the normal working week was currently 43 and 3/4 hours. Persons working in special conditions had a shorter working week.

18. With regard to the question raised by the representatives of Japan and India concerning the termination of employment, a firm or factory could terminate employment only in a few cases prescribed by law and only after the employee concerned had been offered comparable employment and had rejected that offer of employment. The firm or factory was obliged to assist the employee in finding new employment, even in the case of termination of employment without notice. Moreover, every case of termination of employment had to be confirmed by the trade union committee of the firm or factory. All the categories of persons listed in paragraph B (5) on page 5 of the report enjoyed special protection against dismissal. He wished to stress that trade union officials also enjoyed such protection.

19. In the German Democratic Republic, the right to work was associated with the principle of equal pay for equal work, and that principle was enshrined in article 2, section 3 of the Labour Code. That policy was designed to provide incentive for raising productivity and acquiring higher qualifications. At the same time, minimum working conditions were gradually being improved. The national policy of maintaining stable retail prices for everyday goods and keeping rents at a low level meant that people truly benefited from wage increases: inflation and price rises did not affect his country.

20. The representative of Finland had asked about transfer contracts. If an enterprise in the German Democratic Republic had to lay off a worker, its first step must be to offer that worker a transfer contract under which the worker could work in another enterprise without suffering any reduction in his living or working conditions.

21. The representative of India had asked about the treatment of a particular category of persons which essentially consisted of the elderly and handicapped. The principle guiding the provision of such treatment was that the elderly should continue to enjoy the protection of the State and live full and active lives. Twenty per cent of the population of the country were pensioners, one in five of whom was still employed and received wages in addition to a full pension. Under the Labour Code, firms were obliged to do all they could to provide jobs suitable for elderly people, and to offer reasonable alternative work in the same or another firm if a pensioner wished to change his occupation on account of his age. They were obliged to permit part-time work if the worker so desired. Pensioners continued to receive free medical care, although they no longer had to contribute to the national insurance scheme. Pensions had been increased 10 times since the

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(Mr. Laemmerzahl, Observer, German Democratic Republic)

establishment of the Republic. As far as the handicapped were concerned, the Council of Ministers had in 1975 confirmed the right of the handicapped to work, to education and to training as well as to special facilities like organized holidays. Seventy sheltered workshops and other institutions had been operative in 1978, some 50 rehabilitation centres were currently in operation, and 9,000 new jobs would have been created for the least able by the end of 1980. Everyone in the German Democratic Republic, whether at work or not, was covered by the social security system, which provided free medical care for all strata of the population.

22. With regard to the question asked by the representative of Senegal about collective farms, he said that it had to be remembered that all enterprises in the Republic were nationally owned and operated by representatives of the dominant class in the country: the working class. Such enterprises included combines as well as other types. He would provide further details in a more informal setting if the representative of Senegal so wished.

23. Equality for women was a cardinal principle of the social policy of the German Democratic Republic. There was no political, economic or social sphere in which women were not actively engaged, and the State and society ensured that all women could make full use of their equal rights. Eighty-seven per cent of all employable women exercised their right to work, making up almost half the total work force. Working mothers received extensive social assistance, and the country's social policy sought to make it easier year by year for women to reconcile their family duties with training and productive work. All women working full time with two children under 16 in the household were entitled to work 40 hours per week with no reduction in pay. Women were entitled to 26 weeks' paid maternity leave before childbirth and to continuing paid leave after the birth until the child's first birthday in the case of all children except the first: in the case of the first child, maternity leave after the birth was unpaid.

24. Trade unions played a major role in the exercise of working people's right to participate in management and planning. The State guaranteed the right of the Confederation of Free German Trade Unions to carry out its work freely and unhindered. Union activities included drawing up factory plans, campaigning for greater efficiency, and ensuring that workers enjoyed good working conditions. Unions could approve collective agreements with the Ministry of Labour, which were then binding on enterprises. They were also responsible for ensuring the application of industrial safety regulations and for operating the social insurance system and the majority of holiday schemes for workers and their families.

25. Mr. DIA (Senegal) explained that he had asked about the legislation governing collective farms in the German Democratic Republic partly in order to seek clarification on some matters about which the first report of the ILO (E/1978/27) raised doubts.

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26. Mr. LAEMMERZAHL (Observer for the German Democratic Republic) said that the collective farms were governed by the special legal provisions relating to such enterprises. Each farm had its own statute, derived from an established model, which contained provisions for social security coverage, working conditions, etc. analogous to those enjoyed by workers in industry; there was no difference between the social security status of workers in industry and the peasants and others employed in agriculture.

27. The CHAIRMAN said that the Working Group had concluded its consideration of the report of the German Democratic Republic.

28. Mr. SUAREZ (Observer for Chile), introducing the report of Chile, drew attention to a note dated 9 April 1980 from the Permanent Mission of Chile addressed to the Secretary-General* containing information on recent legislation concerning trade union organizations and collective bargaining.

29. The technological and socio-economic advances which had taken place in Chile since the adoption of the Labour Code in 1931 had rendered a complete review of Chilean labour legislation essential so as to bring it in line with the requirements of a modern society. The essential components of the new labour legislation were Decree Law No. 2200 of June 1978 and the laws on trade union organizations and collective bargaining which had been come into force in July 1979.

30. Decree Law No. 2200 regulated the relationship between the individual worker and his employer and established norms for the protection of workers; its purpose was to modernize the legislative structure and make technical improvements by including special provisions concerning, for example, the situation of women and young people in working life. The decree law also attempted to define precisely the inalienable rights of workers, including the rights to remuneration and holidays. A fundamental principle of the new legislation was that it abolished all distinctions between manual and intellectual workers by giving them the same legal status and the same rights and obligations. Under the legislation which had been in force until 1978, many rights had been enjoyed only by intellectual workers; manual workers now enjoyed those rights as well. Examples were the entitlement to leave, participation in the profits of the enterprise, and the possibility of securing pay increases of 10 per cent every three years if there had been no adjustments in pay over that period apart from legal adjustments to offset the loss of purchasing power resulting from inflation.

31. Legislation had been introduced in July 1979 concerning the structure, functioning and powers of trade union organizations. Previously, intellectual workers had enjoyed fairly broad freedom of association and the possibility of forming federations and confederations, while manual workers had had a legal obligation to join the trade unions in their enterprises, regardless of their wishes. The new trade union system was free, democratic and autonomous. It was free, because each individual had the right to join or not to join a trade union according to his wishes; groups of workers were free to form trade union

* To be issued as document E/1978/8/Add.28.

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(Mr. Suarez, Observer, Chile)

organizations without any limitation except a minimum size; trade unions were free to join federations and confederations without any limitation; and trade unions, federations and confederations were free to join international trade union organizations. It was democratic because trade unions dould decide upon their own rules under a secret ballot and decisions were taken democratically in accordance with the views of the majority. It was autonomous, because groups of workers could form trade unions, register their statutes and secure legal recognition, and dissolve them in accordance with the statutes, without any intervention by the administrative authorities.

32. The process of collective bargaining had been suspended since 1973, but in July 1979 legislation had been introduced which once again made it possible to engage in collective bargaining in an efficient, responsible and just manner. The process involved rights and obligations on both sides and it took place between the parties concerned without the intervention of the administrative authorities. The strike was regarded as a last resort in reaching a settlement. Workers were assured of securing real pay increases because the settlement offered by the employer could never be less than 100 per cent of the variation in the cost of living as a result of inflation in the immediate past. All the provisions of the collective bargaining system had been carefully enshrined in the Constitution so as to guarantee their observance.

33. Mr. BYKOV (Union of Soviet Socialist Republics) said that everyone was well aware what the real situation had been in Chile since September 1973. It was also well known that various bodies of the United Nations system had adopted a number of decisions condemning the persistent gross and mass violations of human rights by the Chilean junta; they included General Assembly resolutions 3219 (XXIX), 3448 (XXX), 31/124, 32/118, 33/175 and 34/179. Thus, on a number of occasions, the United Nations had expressed deep indignation on the subject and called for the restoration of basic human rights, including economic, social and cultural rights, and respect for the provisions of the relevant international instruments including the International Covenants on Human Rights to which Chile was party. General Assembly resolution 31/124, which had been adopted in 1976, at the time of the preparation of the report which was before the Working Group, invited United Nations agencies and other international organizations to take steps as a contribution to the restoration and safeguarding of human rights and fundamental freedoms in Chile. The relevant General Assembly resolutions had been supported by States representing all regions and belonging to different socio-economic systems; consequently, they reflected the view of the entire international community. The condemnation of the actions of the junta was based on many official United Nations documents including the eight reports submitted by the Ad Hoc Working Group on the Situation of Human Rights in Chile and the report of the Special Rapporteur on the situation of human rights in Chile appointed by the Commission on Human Rights. The latter report (A/34/583) described how the junta was continuing to violate not only political but also social, economic and cultural rights. General Assembly resolution 34/179 noted that the situation of human rights in Chile had not improved, and even in a number of cases had

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(Mr. Bykov, USSR)

deteriorated, compared with that described in the most recent report of the Ad Hoc Working Group on the Situation of Human Rights in Chile (A/33/331). The Commission on Human Rights had reached similar conclusions in its resolution 21 (XXXVI), adopted in March 1980. Authoritative international bodies such as the Human Rights Committee and the Committee on the Elimination of Racial Discrimination had drawn attention in their decisions to the continuing gross and mass violations of human rights in Chile.

34. It was thus clear that there was no truth in the report submitted by the Chilean authorities. The report was merely an attempt to divert attention from the constant and gross violations of human rights in Chile and to mislead the international community and world public opinion. There was therefore nothing to be achieved by asking specific questions about that hypocritical report which, like the additional information, did not reflect the real situation. The Chilean junta must submit a further report containing accurate and realistic information about the limitations of the human rights envisaged in the International Covenant.

35. Mr. VOLLERS (Federal Republic of Germany) said that Chile's report (E/1978/8/Add.10) was not very enlightening and was concerned only with articles 6 and 7 of the International Covenant, although the additional information did provide some details about the new trade union legislation. Since the relevant United Nations reports indicated that there were severe restrictions on trade union activity in Chile, he felt that further clarification, and comments by the representative of the ILO, would be very helpful to complement the information contained in the report.

36. The supplementary report indicated that there was a rule that a Notary Public must witness the most important operations of trade unions, rather than a labour inspector as previously required. Although that was an improvement, it was not really acceptable that a private association should have to be watched by a public personality when engaged in its business. Perhaps the representative of the ILO could provide information as to whether similar practices existed in other countries. He noted that page 39 of the second report of the ILO (E/1979/33) referred to the recommendation of the Fact-Finding and Conciliation Commission on Freedom of Association of the ILO that new trade union legislation should be adopted in Chile to recognize, inter alia, the right to establish trade union organizations without the participation of the authorities in the constitutent procedure and the right of organizations to hold meetings free of control by the authorities.

37. The supplementary report also indicated that collective bargaining might not take place in institutions, public or private, whose budgets had been financed over the past two calendar years by the State, either directly or through taxes; he asked what kind of institutions those were, in what way the wages for the employees of such institutions were fixed and whether they were automatically adjusted to the levels prevailing in similar institutions in which collective bargaining could take place.

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(Mr. Vollers, Federal Republic of Germany)

38. Another point mentioned was that the grounds for the dissolution of union organizations prescribed by the law included the serious non-fulfilment of legal or statutory provisions; he asked what exactly was meant by that provision, since it could easily be used as a pretext for the dissolution of trade unions which were not to the liking of the authorities.

39. The supplementary report also noted that Chilean legislation established that arbitration was mandatory in disputes in certain types of companies. He requested information as to how that provision was applied, particularly since the classification of companies falling into the categories described in the report was made under a joint resolution of the Ministries of Economy, Defence and Labour. That question was also referred to on page 38 of the second report of the ILO. He also asked how arbitrators were appointed, and whether they were appointed by the Administration.

40. There were questions which were not covered in the reports from Chile; he hoped that oral explanations could be provided, or a further report. For example, there was very little mention of the question of discrimination against women, or of the social security system and unemployment benefits. It was indicated on page 33 of the second report of the ILO that normally a worker who was dismissed was entitled to a termination indemnity at the rate of one month's wages per year of service; he asked whether that meant that there were no unemployment benefits in Chile. Page 34 of the second report of the ILO referred to the request of the Committee of Experts for information on steps taken to review a number of cases of persons who claimed to have been victims of discrimination in employment; nothing seemed to have been done about that.

41. Mr. ERDÖS (Hungary) said that the representative of the Soviet Union had already enumerated the United Nations resolutions and the decisions of various bodies concerning the situation in respect of human rights and fundamental freedoms in Chile and the international community's condemnation of the policies of the Chilean Government. It was erroneous to believe that, with the passage of time, the painful memories of the events of 1973 would disappear. One reason was that, fundamentally, the situation in Chile had not changed. In his introduction to the report, the representative of Chile had spoken of freedom and democracy; those words struck a bitter note. It was clear that the report of the Chilean authorities did not reflect the real situation in Chile and that it contained significant omissions which undermined its value. He therefore associated himself with the view of the representative of the Soviet Union that a new and objective report must be provided about the current situation in Chile.

42. Mr. ABDUL AZIZ (Libyan Arab Jamahiriya) said that since Chile's report and the supplementary information did not reflect the true situation in Chile, and it had been suggested that the Chilean Government should be requested to provide further information in another report, the Working Group should conclude its consideration of Chile's report and ask the representative of Chile to provide additional information at a future session.

43. The CHAIRMAN said that, since there were other members of the Working Group who wished to take the floor, the Working Group would have to continue its discussion at the next meeting.

The meeting rose at 1.05 p.m.