



Agenda item 31: Draft International Covenants on Human Rights

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DOCUMENT A/3149

Note by the Secretary-General

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[25 July 1956]

1. The General Assembly, at its 554th plenary meeting on 14 December 1955, decided to continue its consideration of the draft International Covenants on Human Rights at its eleventh session.

2. At its ninth session, the General Assembly held a first reading of the draft International Covenants on Human Rights. At the tenth session of the Assembly, the Third Committee decided (A/3077, para. 15) to adopt the following procedure for the further consideration of the draft Covenants :

- (1) Discussion of the preambles to both drafts ;
- (2) Discussion of those operative parts common to, or similar in, both drafts beginning with part I of the two Covenants, continuing with part II, and so on ;
- (3) Discussion of the remaining articles in their existing order in the two drafts, beginning with the draft Covenant on Economic, Social and Cultural Rights.

3. At the tenth session, the Third Committee adopted the text of the preambles to the draft Covenant on Civil and Political Rights and the draft Covenant on Economic, Social and Cultural Rights. It also adopted the text of

article 1 for both draft Covenants, relating to the right of peoples and nations to self-determination. The Committee, after considering article 2 of the draft Covenant on Economic, Social and Cultural Rights, decided not to vote on that article until it had considered, discussed and adopted the articles in part III of that draft Covenant. The proceedings of the Third Committee are summarized in its report to the General Assembly (A/3077).

4. The text of the draft covenants and proposals relating thereto are contained in annexes I, II and III to the report of the Commission on Human Rights on its tenth session (E/2573). The observations of Governments and specialized agencies on the draft Covenants submitted in response to General Assembly resolution 833 (IX) are contained in documents A/2910 and Add.1 to 6, and A/2907 and Add.1 and 2. Annotations on the text of the draft Covenants prepared by the Secretary-General, pursuant to the same resolution of the General Assembly, were distributed as document A/2929, and a compilation of amendments and proposed new articles is to be found in documents A/C.3/L.460.

DOCUMENT A/3525 *

Report of the Third Committee

[Original text: English]
[9 February 1957]

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* Incorporating document A/3525/Corr.1.

INTRODUCTION

1. At its 578th plenary meeting, held on 15 November 1956, the General Assembly decided to allocate to the Third Committee for consideration and report item 31 of the agenda of its eleventh session: "Draft International Covenants on Human Rights". The discussion of the draft Covenants (E/2573, annex I), article by article, had been begun by the General Assembly at its tenth session. The report of the Third Committee on its discussion at that session (A/3077) was considered by the General Assembly at its 554th plenary meeting, on 14 December 1955.

2. At its 707th meeting held on 11 December 1956, the Third Committee accepted a proposal made by the Chairman (A/C.3/L.528) regarding a procedure for the consideration of the draft Covenants. The Committee agreed to begin with the discussion of the substantive articles of the draft Covenant on Economic, Social and Cultural Rights and continue with the substantive articles of the draft Covenant on Civil and Political Rights. Upon adoption of the substantive articles of both Covenants, the Committee would take up the general provisions in part II of each Covenant.

3. At its 708th and 709th meetings, the Committee held a procedural discussion on the method of allocation of the remainder of its meetings to the items of its agenda still remaining to be dealt with.

4. Afghanistan and Chile submitted the following procedural proposal (A/C.3/L.531):

"The Third Committee

"Decides to devote:

"1. A minimum of thirty-five meetings to the discussion of the draft International Covenants on Human Rights (item 31) beginning with article 6 of the draft Covenant on Economic, Social and Cultural Rights; and

"2. The rest of its meetings to the consideration of the remainder of the items on its agenda (items 32, 60 and 12). The manner in which these items should be considered shall be decided by the Committee at an appropriate time towards the end of its consideration of item 31."

5. During the discussion of this proposal, some members stated that as much time as possible should be devoted at the Assembly's eleventh session to consideration of the draft Covenants, for the final text of which people

everywhere were waiting anxiously. Others stressed the importance of the other items on the Committee's agenda, notably item 32, relating to the question of self-determination, and maintained that time should be reserved for their consideration also.

6. At the 709th meeting, Afghanistan and Chile amended their joint proposal by deleting the words "a minimum of" in paragraph 1. Uruguay thereupon proposed the reintroduction of these words.

7. The Committee, by 26 votes to 17, with 14 abstentions, accepted the Uruguayan proposal that the words "a minimum of" should be reintroduced in paragraph 1 of the joint proposal (A/C.3/L.531).

8. Paragraph 1 of the joint proposal, as thus amended, was adopted by 41 votes to 2, with 18 abstentions.

9. The representatives of Chile, China, and Guatemala requested a separate vote on the second sentence of paragraph 2 of the joint proposal.

10. The first sentence of paragraph 2 was adopted by 54 votes to none, with 5 abstentions. The second sentence was adopted by 46 votes to 4, with 9 abstentions.

11. The proposal as a whole, as amended, was adopted by 51 votes to none, with 8 abstentions.

12. The Committee then proceeded, at its 709th to 744th and 746th to 748th meetings, to discuss part III of the draft Covenant on Economic, Social and Cultural Rights, article by article. It adopted texts of articles 6, 7, 8, 9, 10, 11 and 12 (combined) and 13. The proceedings of the Committee are briefly described below; a full account of the discussion is contained in the summary records of the meetings.

ARTICLE 6 OF THE DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

13. Article 6 of the draft Covenant on Economic, Social and Cultural Rights as submitted by the Commission on Human Rights (E/2573, annex I A), read as follows:

"1. Work being at the basis of all human endeavour, the States Parties to the Covenant recognize the right to work, that is to say, the fundamental right of everyone to the opportunity, if he so desires, to gain his living by work which he freely accepts.

"2. The steps to be taken by a State Party to this Covenant to achieve the full realization of this right

shall include programmes, policies and techniques to achieve steady economic development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual."

The Committee discussed this article at its 709th to 713th meetings.

Amendments submitted

14. Amendments were submitted by Afghanistan (A/C.3/L.530), Poland (A/C.3/L.532, point 1), Spain (A/C.3/L.533), the United Kingdom of Great Britain and Northern Ireland (A/C.3/L.534), Colombia (A/C.3/L.535), Greece (A/C.3/L.536), Guatemala (A/C.3/L.537), and Italy (A/C.3/L.539).

15. The Afghan amendments (A/C.3/L.530) were as follows:

(1) Paragraph 1:

(a) Delete the following phrase: "Work being at the basis of all human endeavour".

(b) Replace the words "that is to say" by the word "and".

(2) Paragraph 2:

(a) Between the words "economic" and "development", insert the words "social and cultural".

(b) Replace the word "fundamental" by the word "all".

At the 710th meeting, the representative of Afghanistan withdrew point 1 (b) of the amendments in favour of the Greek amendment (A/C.3/L.536) (see para. 20 below). At the 712th meeting, the representative of Afghanistan withdrew point 2 (b) of the amendments.

16. The Polish amendment (A/C.3/L.532, point 1) consisted in the addition of the phrase "and will take appropriate steps to safeguard this right", at the end of paragraph 1.

17. The Spanish amendment (A/C.3/L.533) called for the deletion of the phrase: "if he so desires" in paragraph 1.

18. The United Kingdom amendment (A/C.3/L.534) consisted in the deletion of paragraph 2 of the article. At the 712th meeting, the representative of the United Kingdom withdrew this amendment.

19. Under the amendment submitted by Colombia (A/C.3/L.535) paragraph 1 was to be replaced by the following text:

"The States Parties to the Covenant recognize the right of every person to work, that is to say, his right to the opportunity to gain his living by work which he freely chooses or accepts."

At the 711th meeting, the representative of Colombia accepted a suggestion by the representative of Spain that the word "fundamental" should be inserted before the phrase "right of every person to work".

20. The Greek amendment (A/C.3/L.536) called for the replacement of the words "the right to work, that is to say, the fundamental right of everyone to the opportunity" in paragraph 1 by the words "the fundamental right to work, which includes the right of everyone to the opportunity".

21. The Guatemala amendment (A/C.3/L.537) consisted in the insertion of the words "technical and vocational guidance and training" between the words "shall include" and "programmes" in paragraph 2.

22. The amendment submitted by Italy called for the replacement of the text of paragraph 2 by the following:

"The States Parties to the Covenant agreed to adopt a policy aimed at the removal of those obstacles of an economic and social character which limit *de facto* the freedom and equality of individuals, and thus impair the full development of human personality."

At the 712th meeting, the representative of Italy withdrew this amendment, reserving the right to submit it in connexion with another article of the draft Covenant.

Issues discussed

23. A number of issues engaged the Committee's attention. One of these was whether or not to delete the words "Work being at the basis of all human endeavour" from paragraph 1 of article 6, as proposed in the Afghan amendments (A/C.3/L.530). Representatives who favoured the deletion of those words argued that such a preambular declaration was out of place in a precise and legally phrased article, being too general and vague. On the other hand, it was pointed out that the Commission on Human Rights had intended that the phrase should provide a philosophical keynote, as it were, to the article and the concept was entirely in line with the legislation of many countries.

24. Another issue was whether reference to implementation should be included in the article, or whether implementation was adequately taken care of in part II of the draft Covenant and by the more detailed conventions which the International Labour Organisation (ILO) had drawn up on various aspects of the right to work. Discussion of this problem arose when the Committee was considering the Polish amendment (A/C.3/L.532, point 1) and the United Kingdom amendment (A/C.3/L.534). A number of representatives maintained that, quite apart from the general measures of implementation embodied in article 2 (in part II) of the draft Covenant, and the more specific measures contemplated in paragraph 2 of article 6, relating to implementation of the right to work, the first paragraph of the article should contain, in addition to the statement of the right to work, a reference to the obligation of States to take steps to safeguard that right. Such a reference would be a logical link between the two paragraphs of the article. Representatives who favoured the United Kingdom amendment calling for deletion of paragraph 2 of the article held, however, that certain articles of the draft Covenants, including article 6, should be a simple definition of a broad right, and should leave the question of implementation to be worked out in special and separate conventions, such as those developed by the International Labour Organisation (ILO) in that field. Representatives opposing the United Kingdom amendment insisted that the article would be emasculated by the deletion of paragraph 2; it would then differ very little from the corresponding article of the Universal Declaration of Human Rights.

25. The Committee also devoted some time to discussing whether or not to delete the words "if he so desires" from paragraph 1 of the article, as proposed in the Spanish amendment (A/C.3/L.533). Some objected to those words on the ground that they gave legal consecration to social parasitism, since, in modern society, work was as much a duty as a right. Those who favoured the retention of the words recalled that one reason for having included them in the first place was the desire to recognize the inherent and primary freedom of the individual in the matter, and to avoid any implication of sanctioning forced labour. Those supporting the Spanish amendment pointed out that the objection was met by the phrase "work which he freely accepts" at the end of paragraph 1 of the article. That phrase, it was noted, had been strengthened by the

Colombian amendment (A/C.3/L.535) to read: "work which he freely chooses or accepts".

26. A further issue which the Committee discussed was whether "the right to work" and "the fundamental right of everyone to the opportunity to gain his living by work" were identical, or whether the former included the latter right. This discussion arose during the consideration of the Greek amendment (A/C.3/L.536). Some representatives maintained that the right to work did not mean the same thing as the opportunity to earn a living, and for that reason welcomed the clarification which would be made by the Greek amendment. In reply, it was pointed out that the phrase introduced by "that is to say" in the Commission's draft was simply an elaboration of the concept of "the right to work", and the Greek proposal would imply that there were other elements in the right to work besides the right to the opportunity to work, and those elements would then need to be spelled out also.

27. There was some discussion, resulting from presentation of the Guatemalan amendment (A/C.3/L.537), as to whether article 6 was the appropriate place for referring to vocational training. Some representatives thought that introducing such specific questions would upset the balance of the article, and in any case vocational training was covered by article 14. Other members, however, agreed with Guatemala that vocational training was a sufficiently important aspect of the right to work to deserve special reference, being a prerequisite of the enjoyment of that right.

Voting on article 6

28. At its 712th meeting, the Committee voted as follows on the amendments:

(a) Point 1 (a) of the Afghan amendments (A/C.3/L.530), deleting the words "Work being at the basis of all human endeavour", was adopted by 50 votes to 2, with 14 abstentions.

(b) The Greek amendment (A/C.3/L.536), by which the words "the right to work, that is to say, the fundamental right of everyone to the opportunity" were replaced by the words "the fundamental right to work, which includes the right of everyone to the opportunity" was adopted by 42 votes to 10, with 13 abstentions.

(c) The Spanish amendment (A/C.3/L.533), deleting the words "if he so desires", was adopted by 40 votes to 8, with 16 abstentions.

(d) As a result of the above-mentioned votes, the Committee agreed that it was necessary to vote only on the words "chooses or" in the Colombian amendment (A/C.3/L.535). The Committee adopted those words by 39 votes to 6, with 19 abstentions.

(e) On the proposal of the representatives of Chile, the Committee decided, by 50 votes to 4, with 11 abstentions, to reconsider the question whether the word "fundamental" should be retained before the words "right to work" in paragraph 1 of the article as amended (see sub-paragraph (b) above).

(f) The Committee decided, by 46 votes to 8, with 12 abstentions, to delete the word "fundamental" from paragraph 1 of the article as amended.

(g) Paragraph 1 of the article, as a whole, as amended, was adopted by 56 votes to none, with 10 abstentions.

(h) The Guatemalan amendment (A/C.3/L.537), consisting in the insertion of the words "technical and vocational guidance and training" between the words "shall include" and "programmes" in paragraph 2 of the article, was adopted by 18 votes to 14, with 30 abstentions.

(i) Point 2 (a) of the Afghan amendments (A/C.3/L.530), consisting in the insertion of the words "social and cultural" between the words "economic" and "development" was adopted by 40 votes to 9, with 16 abstentions.

(j) The representative of Haiti requested a separate vote on the word "fundamental" before the words "political and economic freedoms" in paragraph 2; the Committee decided, by 25 votes to 7, with 34 abstentions, to retain the word.

(k) Paragraph 2 of the article, as a whole, as amended, was adopted by 49 votes to none, with 17 abstentions.

(l) At the request of the representative of Egypt, the Committee voted on the article as a whole by roll-call. The article as a whole, as amended, was adopted by 48 votes to none, with 17 abstentions. The voting was as follows:

In favour: Afghanistan, Albania, Argentina, Austria, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Ceylon, Chile, Colombia, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, Finland, Greece, Guatemala, Haiti, India, Indonesia, Iran, Iraq, Israel, Mexico, Morocco, Nepal, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Romania, Saudi Arabia, Spain, Sudan, Sweden, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yemen, Yugoslavia.

Abstaining: Australia, Belgium, Canada, Costa Rica, Cuba, Ethiopia, France, Ireland, Italy, Liberia, Luxembourg, Netherlands, New Zealand, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Present and not voting: China.

29. The Committee decided to adopt the formula "The States Parties to the present Covenant" at the beginning of the article, on the understanding that the language of the phrase should be uniform in all articles.

Text as adopted

30. The text of article 6 as adopted by the Committee reads as follows:

"1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

"2. The steps to be taken by a State Party to this Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual."

ARTICLE 7 OF THE DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

31. Article 7 of the draft Covenant on Economic, Social and Cultural Rights, as submitted by the Commission on Human Rights (E/2573, annex I A), read as follows:

"The States Parties to the Covenant recognize the right of everyone to just and favourable conditions of work, including:

"(a) Safe and healthy working conditions;

"(b) Remuneration which provides all workers as a minimum with:

"(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in par-

ticular, women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; and

"(ii) A decent living for themselves and their families; and

"(c) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay."

The Committee discussed this article at its 713th to 719th meetings.

Amendments submitted

32. Amendments were submitted by Poland (A/C.3/L.532, point 2), Spain (A/C.3/L.538), Uruguay (A/C.3/L.540), Greece and Uruguay (A/C.3/L.545 and A/C.3/L.545/Rev.1), the Netherlands (A/C.3/L.541), Afghanistan (A/C.3/L.542 and A/C.3/L.545/Rev.1), Afghanistan and the Netherlands (A/C.3/L.543), Chile and Peru (A/C.3/L.544) and Guatemala (A/C.3/L.546 and Corr.1). The Dominican Republic submitted a sub-amendment (A/C.3/L.548) to the Greek-Uruguayan amendments (A/C.3/L.545/Rev.1).

33. The amendments of Poland (A/C.3/L.532, point 2) called for the addition in the principal clause of the article, of the words "and will take adequate measures to safeguard the right" before the word "including".

34. At the 715th meeting, the representative of Poland accepted a suggestion that the word "adequate" should be replaced by the word "appropriate" in the above-mentioned proposal. She indicated that, in the event that point 1 (c) of the Greek-Uruguayan amendments (A/C.3/L.545/Rev.1) was adopted without change, no vote need be taken on the Polish amendment. This proved the case and, at the 718th meeting, the Polish amendment was withdrawn.

35. The Spanish amendment (A/C.3/L.538) called for the addition of the words "remuneration for public holidays" at the end of paragraph (c). At the 718th meeting the representative of Spain, at the suggestion of the Chairman, agreed that the text should read "as well as remuneration for public holidays".

36. Under the Uruguayan amendment (A/C.3/L.540) the original text of article 7 was to be replaced by the following:

"The States Parties to the Covenant recognize the right of every person to the enjoyment of just and favourable conditions of work enabling him to lead a decent individual and family life, including guarantees of:

"(a) Fair remuneration without distinctions based on sex or other considerations in conformity with the principle of 'equal pay for equal work';

"(b) A safe and healthy environment for his activity;

"(c) Reasonable limitation of working hours;

"(d) Weekly rest and annual holidays with pay;

"(e) Independence for his moral and civil conscience."

37. After discussion as to whether or not the Uruguayan amendment was an amendment within the meaning of rule 131 of the rules of procedure of the General Assembly, the Chairman stated, at the 714th meeting, that the Office of Legal Affairs of the Secretariat had informed him that it could, on the basis of General Assembly practice, be so considered.

38. Uruguay withdrew the above-mentioned amendment (A/C.3/L.540), replacing it at the 715th meeting by the amendments jointly sponsored by Greece and Uruguay (A/C.3/L.545). These amendments were as follows:

(1) *Introductory paragraph*

(a) Insert the word "present" between the words "to the" and "Covenant";

(b) Replace the words "to just and favourable conditions of work" by the words "to the enjoyment of just and favourable conditions of work";

(c) Replace the word "including" by the words "which, while duly respecting the moral and civil independence of his conscience, ensure:";

(2) Replace paragraph (b) (i) by the following:

"Fair and equal remuneration for work of equal value, without distinction as to sex or any other consideration;"

(3) Place paragraph (a) after paragraph (b) (i);

(4) Place paragraph (b) (ii) at the end of the article, replacing the words "for themselves and their families" by the words "in accordance with the present Covenant".

39. At the 717th meeting, Greece and Uruguay accepted a suggestion by the representative of France that the word "independence" in point 1 (c) of the above amendments should be replaced by the word "freedom"; a suggestion by the Chairman that the first part of point 2 of the joint amendments should be revised to read "Replace paragraphs (b) and (b) (i) by the following:"; and a suggestion by the representative of Iran that in point 4 of the joint amendments the words "provisions of the" should be inserted between "in accordance with the" and "present Covenant". Greece and Uruguay then introduced a new version of the joint amendments (A/C.3/L.545/Rev.1) which took account of the above revisions. The text of article 7 as thus amended read as follows:

"The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which, while duly respecting the moral and civil freedom of his conscience, ensure:

"1. (a) Fair and equal remuneration for work of equal value without distinctions as to sex or other considerations;

"(b) Safe and healthy working conditions;

"(c) Rest, leisure and reasonable limitations of working hours and periodic holidays with pay;

"2. A decent living in accordance with the provisions of the present Covenant."

40. At the 718th meeting, the sponsors withdrew from point 1 (c) of their amendments the words "while duly respecting the moral and civic freedom of his conscience", reserving the right to propose the introduction of this concept elsewhere in the draft Covenant. The sponsors also added to point 1 (c) of their amendments, as thus revised, the words "in particular", so that the amendment proposed in point 1 (c) would read "Replace the word 'including' by the words 'which ensure in particular'".

41. The sub-amendment submitted by the Dominican Republic (A/C.3/L.548) to point 2 of the joint Greek and Uruguayan amendments called for replacement of the words "distinction as to sex or any other considerations" by the words "distinction of any kind, and conditions of work for women not inferior to those for men, with equal pay for equal work".

42. The amendment of the Netherlands (A/C.3/L.541), deleting sub-paragraph (b) (ii) of article 7, was withdrawn at the 717th meeting.

43. The Afghan amendments (A/C.3/L.542) were as follows:

(1) *Paragraph (b)* : Replace the words "all workers" by the word "everyone".

(2) *Paragraph (b) (ii)* : Replace the words "themselves" and "their families" by "himself" and "his family" respectively.

Afghanistan submitted a revised amendment (A/C.3/L.542/Rev.1) at the 716th meeting whereby the words "all workers", in paragraph (b) of the article, would be replaced by the words "all those who work".

44. At the 718th meeting, the representative of Afghanistan withdrew his revised amendment on the understanding that the Committee's report of the discussion of article 7 would, as proposed by Greece, indicate that the Committee, considering that the word "*travailleur*" was used in a wide sense in international instruments and that the literal translation in some languages gave the word a more restricted meaning, agreed that the word "*travailleur*" should be translated in those languages by a term corresponding to the widest sense of the word "*travailleur*", as it appeared in the draft Covenant.

45. The amendment proposed by Afghanistan and the Netherlands (A/C.3/L.543) called for the deletion, from paragraph (b) (i), of the phrase "in particular, women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work".

46. In their amendment (A/C.3/L.544) Chile and Peru proposed that in the Spanish text of paragraph (c) the words "*la utilización del tiempo libre*" should be replaced by the words "*el disfrute del tiempo libre*".

47. The Guatemalan amendment (A/C.3/L.546 and Corr.1) called for the addition of the following paragraph to article 7 :

"(d) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence."

Issues discussed

48. One of the issues which the Committee discussed during its consideration of article 7 was whether or not it should recognize the right to "remuneration for public holidays", as well as to "periodic holidays with pay", as proposed in the Spanish amendment (A/C.3/L.538). Some members thought that this amendment was covered by the words "periodic holidays with pay" and that, in any event, it would introduce unnecessary details and would give rise to difficulties of interpretation. It was argued in favour of the amendment that it would remedy an injustice suffered by workers who were paid by the hour or by the day, in contrast, for example, to salaried employees who were paid by the week or the month. It was also pointed out that the idea contained in the Spanish amendment was not, in point of fact, included in the reference to periodic holidays, which was intended to cover, for example, annual or periodic vacations.

49. The revised Afghan amendment (A/C.3/L.542/Rev.1) led to discussion as to whether article 7 referred to all working persons without exception or whether the word "workers" might be interpreted restrictively to refer to limited elements of the population. It was stated, on the one hand, that article 7 was intended to cover wage-earners in various categories, but not persons such as the self-employed and employers, and that, while everyone should be entitled to just and favourable conditions of work, the statement concerning remuneration should be limited to wage-earners. Others maintained, however, that the article should cover all persons who worked for a living. It was also pointed out that when

the article was translated into some languages, the word "worker" might take on a restrictive meaning; in one language for instance, the word would cover only industrial workers. After the representative of the ILO had explained that customary ILO terminology was "workers" or "work people" in English and "*travailleurs*" in French, and that the word "worker" was used in a broad sense, it was agreed that the word "workers" should be retained, and that the Committee's report should contain an observation concerning its translation into other languages (see para. 44 above).

50. The question of the manner in which article 7 should embody references to equality of conditions of work for men and women and to the principle of equal pay for equal work, including the question whether such references should be retained at all, came up during discussion of the amendment submitted by Afghanistan and the Netherlands (A/C.3/L.543), point 2 of the Greek-Uruguayan amendments (A/C.3/L.545/Rev.1) and the Dominican sub-amendment (A/C.3/L.548) to the Greek-Uruguayan amendments. Some thought that it was not necessary to include any special mention of women's rights, and that the words in question in the original text, "women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work" did not necessarily strengthen the principle of non-discrimination which was adequately stated in article 2 of the draft Covenant. It was argued, however, that to delete those words would be to undo years of work in the field of women's rights. Countries which did not recognize women's rights might interpret the article as being applicable only to men. In opposition to any reference to equal pay for equal work, it was pointed out that some countries has difficulty in applying the principle, and to guarantee equal pay would run counter to the idea of progressive realization embodied in article 2 of the draft Covenant. On the other hand it was pointed out that the principle of equal pay for equal work was being recognized in the legislation of more and more countries, and it was only appropriate that it should find a place in the Covenants, which should guarantee equality both of working conditions and of remuneration to men and women everywhere. A majority of the Committee agreed that the article should contain specific provisions to safeguard both women's rights in general and the principle of equal pay for equal work in particular; after considering the alternative formulae which had been proposed, the Committee decided in favour of the original text as drafted by the Commission on Human Rights (E/2573, annex I A).

Voting on article 7

51. At its 718th meeting, the Committee agreed to follow a procedure for voting on the various amendments before it which had been proposed by the Chairman (A/C.3/L.551).

52. The voting proceeded as follows :

(a) Point 1 (a) of the Greek-Uruguayan amendments (A/C.3/L.545/Rev.1), namely, the insertion of the word "present" between the words "to the" and "Covenant" in the first paragraph of the article, was adopted by 41 votes to none, with 17 abstentions.

(b) Point 1 (b) of the Greek-Uruguayan amendments (A/C.3/L.545/Rev.1), namely, the replacement of the words "to just and favourable conditions of work" by the words "to the enjoyment of just and favourable conditions of work", was adopted by 36 votes to 4, with 20 abstentions.

(c) Point 1 (c) of the Greek-Uruguayan amendments (A/C.3/L.545/Rev.1), as orally revised by the sponsors (see para. 40 above), namely, the replacement of the

word "including" by the words "which ensure, in particular", was adopted by 31 votes to 17, with 12 abstentions.

(d) The representative of Poland withdrew her amendment (A/C.3/L.532, point 2).

(e) The introductory paragraph of article 7, as amended, reading "The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work, which ensure, in particular", was adopted by 39 votes to 2, with 17 abstentions.

(f) At the request of Venezuela, a roll-call vote was taken on the deletion of the phrase "remuneration which provides all workers as a minimum with" from paragraph (b) of article 7, this amendment being implicit in point 2 of the Greek-Uruguayan amendments (A/C.3/L.545/Rev.1). The Committee decided, by 40 votes to 3, with 18 abstentions, against deletion of the phrase. The voting was as follows:

In favour: Afghanistan, Greece, Uruguay.

Against: Albania, Belgium, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Ceylon, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Egypt, Ethiopia, Finland, Guatemala, India, Indonesia, Iraq, Israel, Mexico, Netherlands, Norway, Pakistan, Philippines, Poland, Portugal, Romania, Spain, Sweden, Syria, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Venezuela, Yugoslavia.

Abstaining: Argentina, Australia, Bolivia, Canada, Ecuador, France, Iran, Ireland, Italy, Japan, Liberia, Nepal, New Zealand, Peru, Sudan, Thailand, United States of America, Yemen.

(g) A separate vote was requested by the United Kingdom on the question of retention of the words "as a minimum" in paragraph (b) of the article; the Committee decided, by 47 votes to 4, with 9 abstentions, to retain those words.

(h) At the request of the Dominican Republic, a roll-call vote was taken on the Dominican sub-amendment (A/C.3/L.548), namely, the replacement, in point 2 of the Greek-Uruguayan amendment (A/C.3/L.545/Rev.1), of the words "distinction as to sex or any other consideration" by the words "distinction of any kind, and conditions of work for women not inferior to those for men, with equal pay for equal work". The Committee adopted the Dominican sub-amendment by 41 votes to 6, with 15 abstentions, the vote being as follows:

In favour: Albania, Argentina, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, France, Greece, Guatemala, India, Indonesia, Iraq, Israel, Italy, Nepal, Pakistan, Peru, Poland, Portugal, Romania, Saudi Arabia, Spain, Sudan, Thailand, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Yugoslavia.

Against: Afghanistan, Australia, Canada, Norway, Sweden, Syria.

Abstaining: Belgium, Ceylon, Denmark, Ethiopia, Finland, Iran, Ireland, Japan, Liberia, Mexico, Netherlands, New Zealand, Philippines, United States of America, Yemen.

(i) Point 2 of the Greek-Uruguayan amendments (A/C.3/L.545/Rev.1) as the amended, was voted on by roll-call at the request of the Dominican Republic. The amendment was rejected by 21 votes to 7, with 34 abstentions. The voting was as follows:

In favour: Costa Rica, Dominican Republic, France, Greece, Italy, United Kingdom of Great Britain and Northern Ireland, Uruguay.

Against: Afghanistan, Brazil, Burma, Canada, Ceylon, Chile, China, Denmark, Finland, Guatemala, India, Indonesia, Iraq, Israel, Norway, Pakistan, Philippines, Sweden, Syria, Venezuela, Yugoslavia.

Abstaining: Albania, Argentina, Australia, Belgium, Bolivia, Bulgaria, Byelorussian Soviet Socialist Republic, Colombia, Cuba, Czechoslovakia, Ecuador, Egypt, Ethiopia, Iran, Ireland, Japan, Liberia, Mexico, Nepal, Netherlands, New Zealand, Peru, Poland, Portugal, Romania, Saudi Arabia, Spain, Sudan, Thailand, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United States of America, Yemen.

(f) The amendment submitted by Afghanistan and the Netherlands (A/C.3/L.543), namely, the deletion, in sub-paragraph (b) (i) of article 7, of the phrase "in particular, women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work", was voted on by roll-call at the request of the Union of Soviet Socialist Republics. The amendment was rejected by 39 votes to 11, with 12 abstentions. The voting was as follows:

In favour: Afghanistan, Australia, Belgium, Canada, France, Netherlands, New Zealand, Norway, Sudan, Sweden, United Kingdom of Great Britain and Northern Ireland.

Against: Albania, Argentina, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Ceylon, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, Greece, Guatemala, India, Indonesia, Iraq, Israel, Italy, Mexico, Pakistan, Peru, Philippines, Poland, Portugal, Romania, Spain, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia.

Abstaining: Denmark, Ethiopia, Finland, Iran, Ireland, Japan, Liberia, Nepal, Saudi Arabia, Turkey, United States of America, Yemen.

(k) The original text of sub-paragraph (b) (i) was adopted by 34 votes to none, with 17 abstentions.

(l) Point 3 of the Greek-Uruguayan amendments (A/C.3/L.545/Rev.1), by which paragraph (a) of the original article 1 was to be placed after sub-paragraph (b) (i), was adopted by 17 votes to 15, with 24 abstentions.

(m) The Chairman stated, in connexion with point 4 of the Greek-Uruguayan amendments (A/C.3/L.545/Rev.1), that the only part of the amendment before the Committee was the addition of the words "in accordance with the provisions of the present Covenant" to sub-paragraph b (ii). The Committee decided, by 28 votes to 1, with 27 abstentions, to add those words.

(n) At the suggestion of the Chairman, and with the concurrence of the Spanish-speaking representatives, the Committee agreed that no vote need be taken on the Chilean-Peruvian amendment (A/C.3/L.544), consisting in the replacement, in the Spanish text, of the phrase "la utilización del tiempo libre" by "el disfrute del tiempo libre".

(o) The Spanish amendment (A/C.3/L.538), consisting in the addition, at the end of paragraph (c), of the words "as well as remuneration for public holidays" was adopted by 22 votes to 8, with 29 abstentions.

(p) The Guatemalan amendment (A/C.3/L.546 and Corr.1), namely, the addition of a paragraph reading "Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence", was adopted by 30 votes to 13, with 18 abstentions.

(q) The Committee agreed that the Guatemalan amendment should become paragraph (c) of the final text, paragraph (c) of the original text becoming a new paragraph (d).

(r) Paragraph (a) of the original text of article 7 was adopted by 59 votes to none, with 1 abstention.

(s) Paragraph (c) of the original text (the new paragraph (d)), as amended, was adopted by 54 votes to none, with 8 abstentions.

(t) At the request of the Byelorussian Soviet Socialist Republic, a vote was taken by roll-call on the article as a whole, as amended. The article was adopted by 42 votes to none, with 18 abstentions. The voting was as follows :

In favour : Albania, Argentina, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Ceylon, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, Finland, Greece, Guatemala, India, Indonesia, Iraq, Israel, Mexico, Nepal, New Zealand, Pakistan, Peru, Philippines, Poland, Portugal, Romania, Saudi Arabia, Spain, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia.

Abstaining : Afghanistan, Australia, Belgium, Canada, China, Ethiopia, France, Iran, Ireland, Italy, Japan, Netherlands, Norway, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Yemen.

Text as adopted

53. Article 7, as adopted by the Committee, reads as follows :

"The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work, which ensure, in particular :

"(a) Remuneration which provides all workers as a minimum with :

"(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work ; and

"(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant ;

"(b) Safe and healthy working conditions ;

"(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence ;

"(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays."

ARTICLE 8 OF THE DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

54. Article 8 of the draft Covenant on Economic, Social and Cultural Rights, as submitted by the Commission on Human Rights (E/2573, annex I A), reads as follows :

"The States Parties to the Covenant undertake to ensure the free exercise of the right of everyone to form and join local, national and international trade unions of his choice for the protection of his economic and social interests."

This article was discussed at the 719th to 726th meetings of the Committee.

Amendments submitted

55. Amendments were submitted by the USSR (A/C.3/L.547), Uruguay (A/C.3/L.549), the Netherlands and the United Kingdom (A/C.3/L.550 and A/C.3/L.555), Bolivia, Peru and Uruguay (A/C.3/L.552 and A/C.3/L.552/Rev.1 and 2) and Canada (A/C.3/L.553 and A/C.3/L.554).

56. The USSR amendment (A/C.3/L.547) called for the addition, at the end of the article, of the following sentence : "The right of all trade unions to the free exercise of their functions must be guaranteed."

57. Under the amendment proposed by Uruguay (A/C.3/L.549) the original text was to be replaced by the following :

"The States Parties to the Covenant undertake to ensure the fullest freedom of association. Every person or group of persons shall have the right to form and join trade unions of his or its choice for the promotion and protection of his or its economic and social interests, and the exercise of those rights may not give rise to reprisals against the members or leaders of such trade unions. Trade unions may form federations or confederations and affiliate with any international trade-union organization."

At the 719th meeting, the representative of Uruguay withdrew this amendment in favour of the joint amendment of Bolivia, Peru and Uruguay (A/C.3/L.552).

58. The amendment of the Netherlands and the United Kingdom (A/C.3/L.550) called for the addition of the following, as paragraphs 2 and 3 of the article :

"2. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of this right by members of the armed forces, or of the police, or of the administration of the State.

"3. Nothing in this article shall authorize States Parties to the International Labour Convention of 1948 on Freedom of Association and Protection of the Right to Organise to take Legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention."

59. Bolivia, Peru and Uruguay submitted jointly amendments (A/C.3/L.552) whereby the article was to be revised to read as follows :

"1. The States Parties to the Covenant undertake to ensure the broadest possible trade-union rights. Every person and group of persons shall have the right to form and maintain trade unions and to join trade unions of their choice for the promotion and protection of their economic and social interests. The trade unions shall be free to establish national federations or confederations and to affiliate themselves to any international trade-union organization.

"2. The States Parties to the Covenant undertake to guarantee the right to strike, provided that it is exercised in conformity with the laws of the particular country."

60. Canada submitted amendments (A/C.3/L.553 and A/C.3/L.554) to the original text and to the amendments of Bolivia, Peru and Uruguay, inserting, after the word "choice", in each case, the phrase "subject only to the rules of the organization concerned".

61. At the 720th meeting, the Committee adopted by 38 votes to 8, with 12 abstentions, a proposal by the representatives of Afghanistan and Peru to set up a

working group, composed of the sponsors of the various amendments, to prepare a consolidated text. The working group, which held a meeting on 4 January 1957, reported, at the 721st meeting of the Committee, that it had been unable to agree upon a text for presentation to the Committee.

62. After the working group had met, Bolivia, Peru and Uruguay submitted revised amendments (A/C.3/L.552/Rev.1) redrafting the article to read as follows:

"1. The States Parties to the Covenant undertake to ensure:

"(a) The right of everyone to form and join trade unions of his choice for the promotion and protection of his economic and social interests;

"(b) The right of trade unions to establish national federations or confederations and to form or join international trade-union organizations;

"(c) The right of trade unions to function freely and subject to no restrictions other than those required in a democratic society for the protection of the rights and freedoms of others;

"(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

"2. It shall be unlawful to enact any legislation the effect of which is to impair, or to apply the law in such a manner as to infringe, the rights stipulated in this article."

63. The joint amendments of Bolivia, Peru and Uruguay were subsequently further revised (A/C.3/L.552/Rev.2), resulting in the following new wording of the article:

"The States Parties to the Covenant undertake to ensure:

"(a) The right of everyone to form trade unions and join the trade union of his choice for the promotion and protection of his economic and social interests;

"(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

"(c) The right of trade unions to function freely and subject to no limitations other than those required in a democratic society for the protection of the rights and freedoms of others;

"(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country."

64. Canada re-submitted its sub-amendment (see para. 60 above), adding the phrase "subject only to the rules of the organization concerned" in sub-paragraph (a) of the text proposed in the joint amendments.

65. The sub-amendments of the Netherlands and the United Kingdom (A/C.3/L.555) to the revised joint amendments of Bolivia, Peru and Uruguay (A/C.3/L.552/Rev.1 and 2) were as follows:

(1) At the end of paragraph 1 (a) add the following:

"No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or the protection of the rights and freedoms of others."

(2) In paragraph 1 (c):

(a) Delete the words "unimpeded and";

(b) Replace the words "other than those required" by the words "other than those prescribed by law and which are necessary";

(c) Insert after the words "democratic society" the words "in the interests of national security or public order or".

(3) After paragraph 1 insert the following paragraphs:

"2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, or of the police, or of the administration of the State.

"3. Nothing in this article shall authorize States Parties to the International Labour Convention of 1948 on Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention."

At the 722nd meeting, point 2 (a) of the amendments was corrected by the sponsors to read: "delete the word 'and'".

Issues discussed

66. During the consideration of article 8 a number of issues were discussed. One of them was whether or not the Committee should elaborate upon the original text. It was generally recognized that the subject-matter of the article was very important but, at the same time, very difficult to define and elaborate. In the Commission on Human Rights and in the Third Committee itself profound differences of opinions had arisen and, therefore, a number of representatives thought that the original text, which was of a general nature, was most likely to be acceptable. They felt that further elaborations might merely state the obvious or cast doubt upon the scope of the article, or adversely affect the work of the International Labour Organisation, which had already adopted several conventions and recommendations on the subject. For example, some representatives considered that the original amendments submitted by Bolivia, Peru and Uruguay (A/C.3/L.552), whereby States Parties would undertake to ensure "the broadest possible trade-union rights", would not add anything, as each country would be the sole judge of what was intended by that wording. Nevertheless, many representatives favoured a more comprehensive text which would deal with the individual's right to form and join trade unions as well as with the right of trade unions to function. To the objection that the latter idea would introduce a collective right into the Covenant, it was replied that the Covenants were not confined to individual rights. Nor was it fitting, on the one hand, to grant the right to form and join trade unions and, on the other, to deprive unions of their right to function and to join in national and international federations. In the same way, the aim of individuals in forming or joining trade unions was not simply the passive one of maintaining or protecting their economic and social interests. It was equally necessary to ensure their right to promote those interests. These views found expression in the amendments of Bolivia, Peru and Uruguay (A/C.3/L.552) and in the revisions of those amendments (A/C.3/L.552/Rev.1 and 2).

67. Another question discussed was whether each State Party should undertake to ensure the right of everyone to join a "trade union of his choice" without any qualifications. Such a provision, it was explained, might imply that anyone had the right to join any trade union, whether or not he fulfilled conditions of membership, and that the State must ensure that he should not be denied that right. Moreover, the provision might curtail the right of trade unions to control their internal organization, especially with regard to membership qualifications. In order to avoid those doubts, the representative of Canada had proposed (A/C.3/L.553 and A/C.3/L.554) the insertion of the phrase "subject only to the rules of the organization concerned" after the word "choice". It was pointed out that a similar qualification was included in article 2 of the International Labour Con-

vention (No. 87) on Freedom of Association and Protection of the Right to Organize. Some representatives, however, felt that the intention of the amendment was implicit in the original text and in the amendments submitted by Bolivia, Peru and Uruguay (A/C.3/L.552/Rev.2). Others thought it inadvisable to refer to such matters as rules of organizations in an article which related to obligations of States. Moreover, the amendment might allow too much freedom to trade unions; they might establish regulations actually curtailing the rights provided for in the article.

68. The Committee devoted some time to discussing whether or not to include a provision on the right to strike. On the one hand, it was asserted that the right to strike was essential if workers' economic and social interests were to be protected and if trade unions were to function properly. In the absence of the recognition of that right, it was claimed, there might not be any effective counterbalance to the greater authority of the State or the more advantageous position occupied by the employers. At the same time, it was said that the right to strike could not be recognized in absolute terms and, while the right should obviously be used as a measure of last resort, it should be subject to the laws of each country. These views were reflected in the amendment submitted by Bolivia, Peru and Uruguay (A/C.3/L.552/Rev.1 and 2) by which the article would include a statement that "The States Parties to the Covenant undertake to ensure . . . the right to strike, provided that it is exercised in conformity with the laws of the particular country." On the other hand, it was thought a mistake to single out the right to strike for inclusion without mentioning all the other means by which organized labour could attain its ends. Moreover, to give undue prominence to the right to strike was to ignore the great advances which had been made in co-operation between labour and management, in collective bargaining machinery, and in conciliation procedures. A number of representatives suggested that the amendment should at least provide that the right to strike should be resorted to only after all other means had failed. Some representatives pointed to the difficulty which might arise in distinguishing between strikes for the promotion and protection of economic and social interests and strikes which might be motivated by other reasons, particularly political. Other representatives criticized the joint amendment on the ground that the exercise of the right to strike "in conformity with the laws of a particular country" might mean in fact that it was not a right but a privilege which the State could grant or withdraw at its pleasure.

69. Another issue discussed was whether the article should provide for limitations. It was explained that article 8 was phrased in terms of immediate obligations, as the States Parties were to undertake to ensure the right stated therein and not, as in the case of most of the other articles, merely to recognize the right. The situation, therefore, was similar to that of article 21 of the draft Covenant on Civil and Political Rights (E/2573, annex I B), where the right of association, including the right to form and join, trade unions, was subject to certain limitations. The purpose of the amendments proposed by the Netherlands and the United Kingdom (A/C.3/L.550 and A/C.3/L.555) was to limit the right enunciated in article 8 in the same manner as the right was limited in article 21 of the draft Covenant on Civil and Political Rights. Some representatives pointed out that the question of limitations was dealt with in article 4 of the draft Covenant on Economic, Social and Cultural Rights and that that article applied to all the rights in the Covenant. However, it was stated in reply that the fate of article 4 was yet to be determined and that, in any case, article 8 was so important that the permissible

limitations should be specified. The text of article 8 could be reconsidered subsequently, if so desired, after the discussion of article 4. A number of representatives thought that the Netherlands and United Kingdom amendments went too far, and supported as a compromise the limited number of restrictions set forth in the revised amendments submitted by Bolivia, Peru and Uruguay (A/C.3/L.552/Rev.1 and 2). However, the representatives of the Netherlands and the United Kingdom introduced their texts as sub-amendments (A/C.3/L.555) to those joint amendments.

70. Some representatives opposed, in particular, any imposition of limitations on the functions of trade unions. They favoured the USSR amendment (A/C.3/L.547), consisting in the addition of the sentence "The right of all trade unions to the free exercise of their functions must be guaranteed", and the phrase "the right of trade unions to function freely" in sub-paragraph (c) of the text proposed in the revised amendments of Bolivia, Peru and Uruguay (A/C.3/L.552/Rev.1 and 2). Other representatives supported the restrictions provided in sub-paragraph (c) of the text proposed in the joint amendments (A/C.3/L.552/Rev.1 and 2) and in paragraph 2 of the text proposed in the sub-amendments of the United Kingdom and the Netherlands (A/C.3/L.555) especially on the ground that the trade-union functions whose exercise it was proposed to ensure were nowhere defined.

71. As regards the amendment of the Netherlands and the United Kingdom (A/C.3/L.550 and A/C.3/L.555), which provided that "This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, or of the police, or of the administration of the State", some representatives thought that it was neither necessary nor desirable to adopt so general a phrase as "or of the administration of the State". They considered that, while restrictions on the right of "armed forces" or the "police" were generally recognized, there was no uniformity of practice concerning the application of the rights in the article to civil servants and government employees which warranted such a restriction. Moreover, the proposed restriction might have prejudicial effects on the development of trade-union rights in countries where large numbers of persons were employed in State enterprises. On the other hand, it was explained that the amendment did not deny the rights of the armed forces, or of the police or of the administration of the State, but merely provided for the possibility of lawful restrictions.

72. Some doubt was also expressed concerning the reference to International Labour Convention No. 87 in the amendment proposed by the Netherlands and the United Kingdom (A/C.3/L.550 and A/C.3/L.555), which was identical to the text of paragraph 3 of article 21 of the draft Covenant on Civil and Political Rights (E/2573, annex I B). It was thought that the purpose of the amendment was covered by article 5, paragraph 2, of the draft Covenant. Moreover, if cross-references were to be made to special conventions, they would have to be made in many other articles. It seemed obvious that States Parties to the International Labour Convention would be bound by their obligations under it. However, it was emphasized that the amendment would avoid any subsequent conflict between the Convention and the draft Covenant.

73. There was some discussion about the scope of the phrase "the right of everyone to form and join . . . trade unions". It was recalled that, while the Commission on Human Rights had taken no decision on the matter, its deliberations seemed to denote that article 8 was not intended to govern the rights of employers. During the discussion in the Committee the English term "trade unions" and the Russian and Chinese equivalents were

understood to refer to workers' organizations only, whereas the French term "*syndicats*" and the Spanish term "*sindicatos*" were held to include employers' associations as well. The Committee did not take any stand on this matter.

Voting on article 8

74. At the 725th meeting, the Committee voted as follows:

(a) The Canadian amendment (A/C.3/L.554) to sub-paragraph (a) of the revised text of article 8 as proposed by Bolivia, Peru and Uruguay (A/C.3/L.552/Rev.2), namely, the insertion of the phrase "subject only to the rules of the organization concerned" after the word "choice", was adopted by 25 votes to 9, with 35 abstentions.

(b) At the request of the representative of Belgium, the phrase "for the promotion and protection of his economic and social interests", in sub-paragraph (a) of the revised text (A/C.3/L.552/Rev.2), was voted on separately and adopted by 47 votes to 1, with 19 abstentions.

(c) Sub-paragraph (a) of the revised text proposed by Bolivia, Peru and Uruguay (A/C.3/L.552/Rev.2), as amended, was adopted by 38 votes to 8, with 18 abstentions.

(d) At the request of the representative of Ecuador, the expression "or the protection of the rights and freedoms of others" in point 1 of the Netherlands and United Kingdom amendments (A/C.3/L.555) to the revised text proposed by Bolivia, Peru and Uruguay (A/C.3/L.552/Rev.2) was voted on separately and adopted by 32 votes to none, with 37 abstentions.

(e) The Netherlands and United Kingdom amendment (A/C.3/L.555) adding, at the end of sub-paragraph (a) of the revised text (A/C.3/L.552/Rev.2), the sentence, "No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or the protection of the rights and freedoms of others", was adopted by 30 votes to 12, with 26 abstentions.

(f) Sub-paragraph (b) of the revised text proposed by Bolivia, Peru and Uruguay (A/C.3/L.552/Rev.2), as amended, was adopted by 40 votes to 4, with 24 abstentions.

(g) The Committee agreed not to vote on point 2 (a) of the Netherlands and United Kingdom amendments (A/C.3/L.555) which, as corrected (see para. 65), proposed the deletion of the word "and" in sub-paragraph (c) of the revised text proposed by Bolivia, Peru and Uruguay (A/C.3/L.552/Rev.2), since it applied only to the English text, which would be adjusted to correspond with the original Spanish text.

(h) Point 2 (b) of the Netherlands and United Kingdom amendments (A/C.3/L.555), consisting in the replacement of the words "other than those required" in sub-paragraph (c) of the revised text (A/C.3/L.552/Rev.2), by the words "other than those prescribed by law and which are necessary", was adopted by 29 votes to 7, with 28 abstentions.

(i) Point 2 (c) of the Netherlands and United Kingdom amendments (A/C.3/L.555), calling for the insertion of the words "in the interests of national security or public order or" after the words "democratic society" in sub-paragraph (c) of the text proposed in the revised joint amendments of Bolivia, Peru and Uruguay (A/C.3/L.552/Rev.2), was adopted by 28 votes to 9, with 30 abstentions.

(j) At the request of the representative of the USSR, the phrase "the right of trade unions to function freely",

in sub-paragraph (c) of the revised text (A/C.3/L.552/Rev.2), was voted on separately; the phrase was adopted by 41 votes to 2, with 35 abstentions.

(k) The remainder of sub-paragraph (c) of the revised text (A/C.3/L.552/Rev.2), as amended, and reading "subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others", was adopted by 31 votes to 11, with 24 abstentions.

(l) Sub-paragraph (c) of the revised text proposed by Bolivia, Peru and Uruguay (A/C.3/L.552/Rev.2), as amended, was adopted by 40 votes to 2, with 27 abstentions.

(m) Sub-paragraph (d) of the revised text proposed by Bolivia, Peru and Uruguay (A/C.3/L.552/Rev.2) was adopted by 41 votes to 2, with 26 abstentions.

(n) At the request of the representative of Greece, the words "or of the administration of the State", in the additional paragraph 2 proposed by the Netherlands and the United Kingdom (A/C.3/L.555, point 3) were voted on separately; the words were adopted by 20 votes to 18, with 31 abstentions.

(o) The additional paragraph 2 proposed by the Netherlands and the United Kingdom (A/C.3/L.555) reading "This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, or of the police, or of the administration of the State", was adopted by 21 votes to 10, with 34 abstentions.

(p) The additional paragraph 3 proposed by the Netherlands and the United Kingdom (A/C.3/L.555), namely, "Nothing in this article shall authorize States Parties to the International Labour Convention of 1948 on Freedom of Association and Protection of the Right to Organise to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention", was adopted by 19 votes to 14, with 35 abstentions.

(q) Article 8, as a whole, as amended, was voted on by roll-call at the request of the representative of the Soviet Union and adopted by 37 votes to none, with 32 abstentions. The voting was as follows:

In favour: Albania, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Ceylon, Chile, Czechoslovakia, Denmark, Dominican Republic, Finland, France, India, Indonesia, Iran, Iraq, Israel, Italy, Lebanon, Luxembourg, Mexico, Morocco, Nepal, Netherlands, New Zealand, Norway, Pakistan, Peru, Poland, Romania, Sweden, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.

Abstaining: Afghanistan, Argentina, Australia, Austria, Belgium, Canada, China, Colombia, Costa Rica, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Greece, Guatemala, Honduras, Ireland, Japan, Liberia, Philippines, Portugal, Saudi Arabia, Spain, Sudan, Thailand, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Yemen.

Text as adopted

75. Article 8 as adopted by the Committee reads as follows:

"1. The States Parties to the present Covenant undertake to ensure:

"(a) The right of everyone to form trade unions and join the trade union of his choice subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No

restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedom of others;

“(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

“(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

“(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

“2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, or of the police, or of the administration of the State.

“3. Nothing in this article shall authorize States Parties to the International Labour Convention of 1948 on Freedom of Association and Protection of the Rights to Organise to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.”

ARTICLE 9 OF THE DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

76. Article 9 of the draft Covenant on Economic, Social and Cultural Rights, as submitted by the Commission on Human Rights (E/2573, annex I A), read as follows:

“The States Parties to the Covenant recognize the right of everyone to social security.”

This article was discussed at the 726th to 729th meetings of the Committee.

Amendments submitted

77. Amendments were submitted by the USSR (A/C.3/L.556) and Afghanistan (A/C.3/L.560).

78. The USSR amendment (A/C.3/L.556) consisted in the addition of the words “and to social insurance, the cost of which should be borne by the State or the employer” at the end of article 9. At the 726th meeting, the representative of the USSR accepted a proposal by the representative of Syria that the words “or by both of them jointly” should be inserted at the end of the amendment. At the 729th meeting, the representative of the USSR revised his amendment to read as follows: “including social insurance, the cost of which should be borne by the State or the employer or both of them”.

79. The amendment of Afghanistan (A/C.3/L.560) consisted in the addition of the phrase “in accordance with the organization and resources of each State” at the end of article 9. At the 729th meeting, the representative of Afghanistan said he would not press for a vote on his amendment.

Issues discussed

80. A number of issues engaged the Committee's attention. One of these was whether the article should elaborate the meaning of “social security” and, in particular, whether the words “including social insurance”, as proposed by the representative of the USSR (see para. 78, above), should be added to the article. Some representatives thought that in a legal instrument it was necessary to specify the exact nature of the obligations which States Parties would assume and suggested that

articles 22 and 25 of the Universal Declaration of Human Rights might be used as a guide for the elaboration of various aspects of social security. Other representatives considered that any definition of social security would be difficult, not to say undesirable. They recalled that this difficulty of definition had been recognized during the drafting of the International Labour Convention (No. 102) concerning Minimum Standards of Social Security, which did not contain a definition. Moreover, the concept of social security was continually developing and a rigid definition could only have a limiting effect. Some held the view that social security was already understood in broad terms and included the idea of social insurance, and it was therefore appropriate to allow each State, and the International Labour Organisation full freedom of action in developing the concept. A number of representatives, however, felt that, as there was some doubt whether “social insurance” was included in the term “social security” in every country, it might be as well to include a reference to social insurance.

81. Another issue discussed arose out of the USSR proposal that the cost of social security and social insurance “should be borne by the State or the employer or both of them” (see para. 78 above). In support of the amendment it was stated that, while it would be open to each State to organize its own system, it was not in the best interests of the workers and wage-earners to ask them to bear what might amount to a large part of the costs of social security; the amendment set forth the most desirable method of financing. It was explained that the proposal would not require an immediate alteration in the system of any country since, like the other provisions of the Covenant, it would be subject to progressive implementation as laid down in article 2. The amendment was opposed on the grounds that it was mandatory and that it ignored the diversity of the systems prevalent in different countries. A number of representatives pointed out that in many countries the method of financing social security was based on the participation of the State, the employer and the worker, a system which was neither out of date nor unjust. Other representatives pointed out that the contribution of the workers within the tripartite system emphasized the principle of social solidarity and entitled the workers to participate, on an equal basis with the employers and the State, in the establishment and functioning of social security. It was further pointed out by many representatives that each State should be left to determine the system best suited to its needs and resources.

82. The representative of Afghanistan, in introducing his amendment (A/C.3/L.560), explained that the addition of the phrase “in accordance with the organization and resources of each State” was intended to provide for flexibility in the implementation of the right, particularly in the event that the USSR amendment concerning the method of financing was accepted. However, it was pointed out that the idea embodied in the Afghan amendment was already contained in article 2, which governed the implementation of all the rights set forth in the Covenant.

83. The question whether the right to social security should be restricted to workers or salaried employers was also discussed, but it was the general feeling that the right should extend to “everyone”.

Voting on article 9

84. At the 729th meeting, the Committee voted as follows:

(a) At the request of the representative of the USSR, the words “including social insurance” in the USSR

amendment (see para. 78, above) were voted on separately and adopted by 26 votes to 13, with 28 abstentions.

(b) The rest of the USSR amendment, namely, the words "the cost of which should be borne by the State or the employer or both of them", was voted on separately at the request of the representative of the USSR and was rejected by 41 votes to 9, with 17 abstentions.

(c) Article 9 as a whole, as amended, was adopted by 51 votes to 1, with 16 abstentions.

Text as adopted

85. Article 9 as adopted by the Committee reads as follows:

"The States Parties to the present Covenant recognize the right of everyone to social security including social insurance."

ARTICLE 10 OF THE DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

86. Article 10 of the draft Covenant on Economic, Social and Cultural Rights, as submitted by the Commission on Human Rights (E/2573, annex I A), reads as follows:

"The States Parties to the Covenant recognize that:

"1. Special protection should be accorded to motherhood and particularly to maternity during reasonable periods before and after childbirth; and

"2. Special measures of protection, to be applied in all appropriate cases, within and with the help of the family, should be taken on behalf of children and young persons, and in particular they should not be required to do work likely to hamper their normal development. To protect children from exploitation, the unlawful use of child labour and the employment of young persons in work harmful to health or dangerous to life should be made legally actionable; and

"3. The family, which is the basis of society, is entitled to the widest possible protection. It is based on marriage, which must be entered into with the free consent of the intending spouses."

This article was discussed at the 730th to 738th meetings of the Committee.

Amendments submitted

87. Amendments were submitted by the Netherlands (A/C.3/L.557), Bulgaria (A/C.3/L.558), the USSR (A/C.3/L.559), Saudi Arabia (A/C.3/L.561), Chile and Peru (A/C.3/L.562), Ecuador and Greece (A/C.3/L.563), Italy (A/C.3/L.564) and Uruguay (A/C.3/L.565). Afghanistan submitted sub-amendments (A/C.3/L.566, A/C.3/L.567, A/C.3/L.568 and A/C.3/L.569) to the amendments of Chile and Peru (A/C.3/L.562), Ecuador and Greece (A/C.3/L.563), the Netherlands (A/C.3/L.557) and Italy (A/C.3/L.564).

88. The Netherlands amendment (A/C.3/L.557) called for the insertion of the words "or morals" between "health" and "or dangerous to life" in paragraph 2 of the article.

89. The Bulgarian amendments (A/C.3/L.558) were as follows:

(1) Insert the following in article 10 as a new paragraph 3:

"3. Special protection should be accorded to destitute children who have lost both parents and destitute children born out of wedlock whose parentage has not been established; the State undertakes to provide for and bear the cost of their upbringing and education;"

(2) Renumber the former draft paragraph 3 as paragraph 4.

90. The USSR amendment (A/C.3/L.559) called for the insertion of the following sentence at the end of paragraph 1: "Paid leave for the period before and after childbirth should be accorded to employed women at the expense of the State or the employer."

91. Under the amendment submitted by Saudi Arabia (A/C.3/L.561) paragraph 1 was to be replaced by the following:

"1. Special protection should be accorded to mothers, particularly during maternity, for reasonable periods before and after childbirth; and".

92. Under the amendment of Chile and Peru (A/C.3/L.562) the first sentence of paragraph 2 was to be replaced by the following:

"2. Special measures of protection and assistance should be taken on behalf of all children and young persons, without any discrimination whatsoever. In particular they should not . . .".

93. The amendment of Ecuador and Greece (A/C.3/L.563) consisted in replacing paragraph 3 by the following text:

"The family, as the natural and fundamental group unit of society, is entitled to the widest possible protection and assistance. Marriage requires the free consent of the intending spouses."

Paragraph 3 was to become paragraph 1, the present paragraphs 1 and 2 becoming 2 and 3, respectively.

94. In the Italian amendment (A/C.3/L.564) it was proposed that the second sentence of paragraph 2 should be replaced by the following:

"Their employment in conditions harmful to their health or morals or dangerous to life should be made punishable by law."

95. The amendments of Uruguay (A/C.3/L.565) would replace the original text by the following:

"The States Parties to the Covenant recognize that:

"1. Special protection should be accorded to mothers, particularly for a reasonable period before and after childbirth. During such period working mothers shall be entitled to paid leave;

"2. Special measures of protection should be taken on behalf of all minors, whether born in or out of wedlock, and in particular of orphans, the cost of whose maintenance and education shall be borne by the State;

"3. To protect minors from exploitation in occupations which are prejudicial or harmful to their health or morals or dangerous to life, the rules to be laid down should provide severe penalties for any contravention;

"4. The family, which is the basis of society, is entitled to wide economic protection."

96. Afghanistan submitted a sub-amendment (A/C.3/L.566) to the amendment of Chile and Peru (A/C.3/L.562) replacing the words "young persons" by the words "minors".

97. The Afghan sub-amendments (A/C.3/L.567) to the amendment of Ecuador and Greece (A/C.3/L.563) were as follows:

(1) First sentence of the proposed paragraph 3:

(a) Add, at the beginning of this paragraph, the following: "Special protection should be accorded to";

(b) Replace the word "as" by the words "which is";

(c) Delete the phrase "is entitled to the widest possible protection and assistance".

(2) Second sentence of the proposed paragraph 3 :

Replace the word "requires" by the following: "must be entered into with".

98. The Afghan sub-amendment (A/C.3/L.568) to the Netherlands amendment (A/C.3/L.557) called for the replacement of the word "between" by the word "before" and the deletion of the remainder of the amendment.

99. The Afghan sub-amendments (A/C.3/L.569) to the amendment submitted by Italy (A/C.3/L.564) were as follows :

(1) After the word "Their" which appears at the beginning of the sentence, add the following words "exploitation or".

(2) Place the words "morals or" before the word "health".

Establishment of a Working Party and report of that group

100. At its 733rd meeting on 16 January 1957, the representatives of Iran and Italy proposed the establishment of a Working Party on article 10 "to try to bring together, in a harmonized form, all the amendments and suggestions which have been put forward". The proposal was adopted by 30 votes to 12, with 21 abstentions. The Working Party was to be composed of one sponsor of each of the amendments to article 10 which were before the Committee, as well as of the representatives of Canada, Guatemala and Sweden.

101. The Working Party, which was composed of the representatives of Afghanistan (Chairman), Bulgaria, Canada, Chile, Ecuador, Guatemala, Italy, Sweden, the USSR and Uruguay, held three meetings on 17 and 18 January 1957. It reported to the Committee (A/C.3/L.570) and submitted the following text for its consideration :

"The States Parties to the Covenant recognize that :

"1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses ;

"2. Special protection should be accorded to mothers while they are responsible for the care and education of dependent children and particularly during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave ;

"3. Special measures of protection and assistance should be taken on behalf of all minors without any discrimination for reasons of parentage or other conditions. Minors should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law."

Amendments to the text of the Working Party

102. Amendments to the text proposed by the Working Party were submitted by Sweden (A/C.3/L.571), Bulgaria (A/C.3/L.572), the United Kingdom (A/C.3/L.574), Romania (A/C.3/L.575), Denmark (A/C.3/L.576) and the USSR (A/C.3/L.577). A sub-amendment was submitted by Chile (A/C.3/L.573) to the amendment of Sweden (A/C.3/L.571).

103. In the Swedish amendment (A/C.3/L.571) it was proposed that the words "while they are responsible for

the care and education of dependent children and particularly" should be deleted from the first sentence of paragraph 2.

104. The sub-amendment of Chile (A/C.3/L.573) to the text proposed in the Swedish amendment (A/C.3/L.571) consisted in the insertion of the words "in particular" after the word "mothers".

105. The Bulgarian amendment (A/C.3/L.572) called for the addition of the following sentence at the end of paragraph 1: "Responsibility for the maintenance and education of needy children who have lost both parents shall be assumed by the State".

106. The amendments of the United Kingdom (A/C.3/L.574) were as follows :

Paragraph 1

Replace the words "and while it is responsible for the care and education of dependent children" by the words "and while it includes dependent children".

Paragraph 3

Replace the word "minors" throughout, by the words "children and young persons".

At the 737th meeting, the representative of the United Kingdom withdrew the amendment to paragraph 1.

107. In the amendment of Romania (A/C.3/L.575) it was proposed that the following sentence should be added at the end of paragraph 3: "States should also set age limits below which the paid employment of child labour shall be prohibited and punishable by law."

108. The Danish amendment (A/C.3/L.576) consisted in the addition of the words "or leave with adequate social security benefits" at the end of paragraph 2.

109. The USSR amendment (A/C.3/L.577) consisted in the addition of the words "at the expense of the State or the employer" at the end of paragraph 2.

Issues discussed

110. While endorsing in general the principles embodied in article 10, several delegations expressed dissatisfaction at the text as drafted by the Commission on Human Rights (E/2573, annex I A), stating that it was inadequate, vague and lacking in precision. Others thought that it went into too much detail, and included provisions which were out of place in the draft Covenant. A number of representatives felt that the article should provide more concrete obligations on the part of States. The structure of the article was also criticized. It was suggested that to be more logical it should start with provisions relating to the family before dealing with the protection of motherhood and children and young persons.

111. Certain questions were raised regarding the scope of the special protection to be accorded to "motherhood and particularly to maternity during reasonable periods before and after childbirth", as provided in paragraph 1 of the original text. The words "motherhood" and "maternity" were deemed to be too abstract and open to various interpretations. "Motherhood" could be meant to cover the period of the mother's responsibility for the development of the child during its early years or it could refer to the general state of being a mother. Some representatives thought that it might be preferable to accord special protection "to mothers, particularly for a reasonable period before and after childbirth", as proposed by Uruguay (A/C.3/L.565). However, this formulation was opposed on the grounds that it would extend protection to mothers for an indefinite period and might place them at a disadvantage in the labour market.

There was some support for the text proposed by the Working Party (A/C.3/L.570) which would accord protection "to mothers while they are responsible for the care and education of dependent children and particularly during a reasonable period before and after childbirth". However, many representatives preferred to omit from this text the words "while they are responsible for the care and education of dependent children and particularly", as proposed by Sweden (A/C.3/L.571) and limit the scope of the protection to the period before and after childbirth. They pointed out that the protection of mothers during the period in which they were responsible for the care and education of dependent children should be accorded within the framework of the family as envisaged in paragraph 1 of the text of the Working Party, since the care and education of children was not the sole responsibility of the mother. However, a number of representatives objected to limiting the protection of mothers to the period before and after childbirth, maintaining that the mother as such was entitled to special protection.

112. The USSR amendment (A/C.3/L.559) led to discussion of the question whether or not provisions concerning paid maternity leave should be included. It was maintained on the one hand that the provisions concerning special protection of mothers would be inadequate without reference to actual measures to be taken by States to ensure such protection. On the other hand, some representatives, while not opposed to the principle of paid maternity leave, doubted the wisdom of including a reference to specific measures. Moreover, it was thought inappropriate to refer only to paid leave when there were other equally important maternity benefits to which mothers were entitled under the legislation of many countries. For this reason, the addition of a reference to "leave with adequate social security benefits" as proposed in the Danish amendment (A/C.3/L.576) was welcomed. Regarding the second part of the USSR amendment (A/C.3/L.559 and A/C.3/L.577) relating to payment of maternity leave "at the expense of the State or the employer", it was argued that the provision concerning paid maternity leave would be incomplete unless the manner of meeting its cost was specified. The proposal would create no difficulties for States since the rights recognized under the Covenant were to be realized progressively. However, many representatives were opposed to specifying how paid maternity leave was to be financed and felt that the matter should be left in each case to the State. It was pointed out that in certain countries paid maternity leave was financed on a tripartite basis. To place the burden of maternity benefits on the employer alone would be detrimental to the interests of working women, since employers might in that case be reluctant to employ them. It was recalled that the International Labour Convention (No. 103) concerning Maternity Protection recognized the principle that the employer should not be made personally liable for such benefits.

113. The desirability of using the words "children and young persons" instead of "minors" was also discussed. Those who preferred the term "minors", as proposed in the amendment of Uruguay (A/C.3/L.565), the Afghan sub-amendment (A/C.3/L.566) and the text of the Working Party (A/C.3/L.570), maintained that the term had a specific legal connotation and was used in ILO conventions. On the other hand, it was held that since the age of majority differed from country to country the use of the term "minors" would not ensure uniformity of obligations as between the States Parties. The words "children and young persons", as proposed in the original text and in the United Kingdom amendment (A/C.3/L.574), were to be preferred, since the purpose of the

article was to emphasize the protection to be extended to children while they were still dependent on their families.

114. Doubts were expressed concerning the scope of the protection accorded to children under paragraph 2 of the original text of article 10. The expression "to be applied in all appropriate cases, within and with the help of the family" was thought to give rise to the implication that children born out of wedlock as well as orphans were not entitled to special protection. It was thought necessary, therefore, to state explicitly that special protection should be accorded to "destitute children who have lost both parents and destitute children born out of wedlock whose parentage has not been established" and that the State should provide for their upbringing and education, as proposed in the Bulgarian amendment (A/C.3/L.558). The amendment was opposed, however, on the grounds that it introduced a degree of particularization which might produce undesirable results, and that there was no justification for singling out two categories of destitute children for special treatment while omitting such categories as the handicapped, the disabled and the blind. Moreover, it was not appropriate to provide that the State alone should be responsible for the upbringing and education of destitute children, since in some countries the responsibility was borne by the local authorities and by private charitable organizations. It was said that the expression "to be applied in all appropriate cases, within and with the help of the family" was not meant to exclude children with no families, but simply meant that protection should be given, when appropriate, within the framework of the family. Nevertheless, to obviate the possibility of misinterpretation, it was thought preferable to omit the phrase in question and to provide explicitly that all children were entitled to special protection "without any discrimination for reasons of parentage or other conditions" as proposed in the text of the Working Party (A/C.3/L.570). However, some misgivings were voiced concerning the inclusion of this clause in the article, since article 2 of the draft Covenant already contained a non-discrimination clause which applied to all the rights enunciated in the Covenant.

115. The Committee devoted some time to discussing the clause in paragraph 2 of the original text relating to child labour and the employment of children and young persons. The view was expressed that such provisions were out of place in the Covenant and that their formulation was the responsibility of the ILO. On the other hand, a majority of representatives felt that the inclusion of a provision aimed at protecting children and young persons from exploitation and from dangerous or harmful employment was necessary. It was recognized, however, that the text as drafted by the Commission on Human Rights could and should be improved. The clause "the unlawful use of child labour . . . should be made legally actionable" was tautological and, moreover, the words "legally actionable" were inappropriate since they implied civil action only, whereas the French and Spanish texts spoke of penal sanctions. It was also pointed out that the improper employment of young persons could be harmful not only to their physical health but also to their spiritual well-being; accordingly, the prohibition of work harmful to "morals", as proposed in the Netherlands amendment (A/C.3/L.557), was supported. The following redraft of the provisions was suggested by the Working Party (A/C.3/L.570): "Minors should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law." It was pointed out that the new text failed

to provide adequate safeguards in respect of child labour. An amendment by Romania (A/C.3/L.575) sought to add a clause whereby States would "set age limits below which the paid employment of child labour should be prohibited and punishable by law".

116. The Committee also devoted some time to discussing the desirability of including in article 10 provisions relating to the family and to marriage. One view was that such provisions were entirely out of place in the Covenant on Economic, Social and Cultural Rights. It was pointed out that the matter was fully covered in article 22 of the draft Covenant on Civil and Political Rights. Another view was that, while some reference should be made in article 10 to the protection of the family, it was neither necessary nor appropriate to include a provision relating to marriage and the free consent of the intending spouses. Marriage, it was claimed, was a matter of civil law and should be dealt with in the Covenant on Civil and Political Rights. A third view was that it was appropriate to include provisions concerning the protection of the family in the Covenant on Economic, Social and Cultural Rights, since the family as a unit needed special protection, particularly economic protection. It was likewise essential that a specific reference should be made to marriage and the free consent of the intending spouses, particularly since there were still marriage practices in parts of the world which violated the principle of free consent.

117. Objections were raised to the text of the provisions relating to the family and marriage as drafted by the Commission on Human Rights. Some representatives objected to the reference to the family as "the basis of society" and preferred the formulation proposed in the amendment of Ecuador and Greece (A/C.3/L.563), which referred to the family as "the natural and fundamental group unit of society". It was pointed out that the latter formulation followed the wording used in article 22 of the draft Covenant on Civil and Political Rights. The statement that the family was "based on marriage", which appeared in the original text of article 10, was also criticized as giving rise to the implication that a family not based on marriage was not entitled to protection. The text proposed by the Commission on Human Rights was redrafted by the Working Party as follows:

"The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses".

A number of representatives preferred the deletion of the words "particularly for its establishment and while it is responsible for the care and education of dependent children". The phrase "while it is responsible for the care and education of dependent children" might imply that a family with no children was not entitled to protection by the State. However, it was maintained that the phrase should be retained in order to emphasize the role of the family as the natural protector of young children. The addition of the word "assistance" was also objected to, as its meaning was not clear. However, its retention was deemed necessary, since it would emphasize positive measures which States should take. Objections were also raised against the inclusion of the clause relating to marriage as it bore no relation to the protection of the family. In reply, it was held that the clause was essential, embodying as it did, a principle of vital importance.

Voting on article 10

118. At the 737th meeting, the Committee voted on the text of article 10 as prepared by the Working Party (A/C.3/L.570) and the amendments thereto as follows:

Paragraph 1

(a) At the request of the representative of Afghanistan, a separate vote was taken on the words "and assistance" in paragraph 1; the words were adopted by 32 votes to 10, with 20 abstentions.

(b) The words "which is the natural and fundamental group unit of society" were voted on separately at the request of the representative of Ecuador, and were adopted by 50 votes to 5, with 8 abstentions.

(c) At the request of the representative of Iraq, the words "for its establishment and" were voted on separately; they were adopted by 34 votes to 13, with 17 abstentions.

(d) The words "while it is responsible for the care and education of dependent children" were voted on separately at the request of the representative of Ecuador, and were adopted by 46 votes to 5, with 12 abstentions.

(e) The second sentence of paragraph 1, namely, "Marriage must be entered into with the free consent of the intending spouses", was voted on separately at the request of the representative of Pakistan, and was adopted by 24 votes to 23, with 18 abstentions.

(f) The Bulgarian amendment (A/C.3/L.572) consisting in the addition of the sentence "Responsibility for the maintenance and education of needy children who have lost both parents shall be assumed by the State", at the end of the paragraph was rejected by 32 votes to 13, with 18 abstentions.

(g) Paragraph 1 of the text of the Working Party (A/C.3/L.570) as a whole was adopted by 53 votes to 1, with 11 abstentions.

Paragraph 2

(h) The part of the Swedish amendment (A/C.3/L.571) calling for the deletion of the words "while they are responsible for the care and education of dependent children and", in paragraph 2 was adopted by 51 votes to 8, with 6 abstentions.

(i) It was agreed that the vote on the rest of the Swedish amendment (A/C.3/L.571), namely, the deletion of the word "particularly" in paragraph 2 of the text by the Working Party, would make it unnecessary to vote on the Chilean sub-amendment (A/C.3/L.573) calling for the insertion of the words "in particular". The vote was taken by roll-call at the request of the representative of the Dominican Republic. It was decided, by 34 votes to 19, with 12 abstentions, to delete the word. The voting was as follows:

In favour: Afghanistan, Canada, Colombia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, Ethiopia, Finland, France, Guatemala, Honduras, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Japan, Liberia, Mexico, Netherlands, New Zealand, Norway, Pakistan, Philippines, Saudi Arabia, Spain, Sweden, Syria, Thailand, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Albania, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Byelorussian Soviet Socialist Republic, Chile, China, Czechoslovakia, Peru, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia.

Abstaining: Bulgaria, Burma, Cambodia, Ceylon, El Salvador, Greece, India, Luxembourg, Morocco, Portugal, Sudan, Yemen.

(j) At the request of the representative of Israel, the second sentence of paragraph 2, namely, "During such period working mothers should be accorded paid leave", was voted on separately and adopted by 42 votes to 10, with 12 abstentions.

(k) The USSR amendment (A/C.3/L.577) consisting in the insertion of the words "at the expense of the State or the employer" at the end of the second sentence was rejected by 37 votes to 10, with 14 abstentions.

(l) The Danish amendment (A/C.3/L.576) adding the words "or leave with adequate social security benefits", to the second sentence was adopted by 28 votes to 12, with 22 abstentions.

(m) Paragraph 2 of the text of the Working Party (A/C.3/L.570) as a whole as amended, was adopted by 55 votes to none, with 9 abstentions.

Paragraph 3

(n) At the request of the representative of Afghanistan, the words "and assistance" in paragraph 3 were voted on separately. They were adopted by 35 votes to 7, with 20 abstentions.

(o) The word "all" before the word "minors" was voted on separately at the request of the representative of the United Kingdom, and was adopted by 35 votes to 14, with 15 abstentions.

(p) The United Kingdom amendment (A/C.3/L.574) replacing the word "minors" by the words "children and young persons" throughout paragraph 3 was adopted by 43 votes to 7, with 12 abstentions.

(q) At the request of the representative of Israel, a separate vote was taken on the words "without any discrimination"; the words were adopted by 47 votes to 7, with 10 abstentions.

(r) The words "for reasons of parentage or other conditions" were voted on separately at the request of the representative of the United Kingdom, and were adopted by 36 votes to 17, with 10 abstentions.

(s) The phrase "children and young persons should be protected from economic . . . exploitation" in the second sentence was adopted by 53 votes to 5, with 8 abstentions.

(t) The words "and social" after the word "economic" in the second sentence were voted on separately at the request of the representative of the United Kingdom, and were adopted by 32 votes to 13, with 19 abstentions.

(u) The Romanian amendment (A/C.3/L.575), adding the sentence "States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law" at the end of paragraph 3, was adopted by 25 votes to 22, with 17 abstentions.

(v) Paragraph 3 of the text of the Working Party (A/C.3/L.570) as a whole, as amended, was adopted by 48 votes to one, with 15 abstentions.

(w) The text of the article as a whole, as amended, was adopted by 49 votes to none, with 15 abstentions.

Text as adopted

119. Article 10, as adopted by the Committee, reads as follows:

"The States Parties to the present Covenant recognize that:

"1. The widest possible protection and assistance should be accorded to the family, which is the natural

and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses;

"2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits;

"3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law."

ARTICLES 11 AND 12 OF THE DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

120. Articles 11 and 12 of the draft Covenant on Economic, Social and Cultural Rights, as submitted by the Commission on Human Rights (E/2573, annex I A), read as follows:

Article 11

"The States Parties to the Covenant recognize the right of everyone to adequate food, clothing and housing."

Article 12

"The States Parties to the Covenant recognize the right of everyone to an adequate standard of living and the continuous improvement of living conditions."

The Committee, having agreed that articles 11 and 12, as drafted by the Commission on Human Rights, should be combined, considered the two articles at its 739th to 743rd meetings.

Amendments submitted

121. Amendments were submitted by Poland (A/C.3/L.532, point 3), Afghanistan (A/C.3/L.578), Guatemala (A/C.3/L.579), the Philippines (A/C.3/L.580), Saudi Arabia (A/C.3/L.581), the United Kingdom and Uruguay (A/C.3/L.582), the Dominican Republic, Ecuador and El Salvador (A/C.3/L.583). Sub-amendments were submitted by Afghanistan (A/C.3/L.584) and by Chile and Japan (A/C.3/L.585) to the amendment of the United Kingdom and Uruguay (A/C.3/L.582).

122. The Polish amendment (A/C.3/L.532, point 3) consisted in the addition of the phrase "and will take appropriate steps to secure the conditions for the fulfilment of this right" at the end of article 11 and article 12.

123. The Afghan amendment (A/C.3/L.578) called for the addition of the words "the full opportunity to gain", in article 11, after the words "the right of everyone to".

124. The Guatemalan amendment (A/C.3/L.579) consisted in the addition of the phrase "and will in consequence adopt such measures as may be necessary to facilitate their acquisition" at the end of article 11.

125. The Afghan (A/C.3/L.578) and Guatemalan (A/C.3/L.579) amendments were withdrawn after it was decided to combine articles 11 and 12.

126. In the Philippines amendment (A/C.3/L.580) it was proposed that the texts of articles 11 and 12 should be replaced by a single article, reading as follows:

"The States Parties to this Covenant recognize the right of everyone to:

"1. A decent standard of living and the continuous improvement of living conditions; and

"2. Adequate food, clothing and housing."

127. In the amendment submitted by Saudi Arabia (A/C.3/L.581) it was proposed that the texts of articles 11 and 12 should be replaced by a single article, reading as follows:

"The States Parties to the Covenant recognize the right of everyone to adequate food, clothing and housing, and to the continuous improvement of living conditions."

128. The amendment of the United Kingdom and Uruguay (A/C.3/L.582) called for the replacement of the texts of articles 11 and 12 by a single article, reading as follows:

"The States Parties to the Covenant recognize the right of everyone to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions."

129. In the amendment submitted by the Dominican Republic, Ecuador and El Salvador (A/C.3/L.583) it was proposed that the texts of articles 11 and 12 should be replaced by a single article, reading as follows:

"The States Parties to the Covenant recognize the right of everyone to an adequate standard of living and to a continuous improvement of living conditions such as will ensure the well-being of the individual and his family, especially as regards adequate food, clothing and housing."

130. The Afghan sub-amendment (A/C.3/L.584) to the amendment of the United Kingdom and Uruguay (A/C.3/L.582) would replace that text by the following:

"The States Parties to the Covenant recognize the right of everyone to continuous improvement of living conditions in order to achieve a better standard of living including adequate food, clothing and housing."

131. The sub-amendment of Chile and Japan (A/C.3/L.585) to the amendment of the United Kingdom and Uruguay (A/C.3/L.582) consisted in adding, at the end of the article, the following words: "and likewise recognize the particular importance of international co-operation with a view to ensuring the full exercise of that right".

Establishment of a Working Party and report of that group

132. At its 741st meeting, on 24 January 1957, the representatives of Ecuador and Mexico proposed the establishment of a Working Party on articles 11 and 12 to conciliate the various amendments and sub-amendments which had been submitted to the combined texts of those articles. The proposal was adopted by 33 votes to 12, with 8 abstentions. The Working Party was to be composed of the sponsors of each of the amendments and sub-amendments before the Committee, as well as of the Rapporteur, the representative of Guatemala.

133. The Working Party, which was composed of the representatives of Afghanistan (Chairman), El Salvador, Guatemala, Japan, the Philippines, Poland and Uruguay, met on 24 January 1957. It reported to the Committee (A/C.3/L.586) and submitted the following combined text of articles 11 and 12 for its consideration:

"The States Parties to the Covenant recognize the right of everyone to an adequate standard of living,

including food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation."

Amendments to the text of the Working Party

134. Amendments to the text proposed by the Working Party were submitted by El Salvador (A/C.3/L.587), and orally by the United Kingdom and Syria at the 742nd meeting.

135. The amendment of El Salvador (A/C.3/L.587) called for the insertion of the words "for himself and his family" after the words "adequate standard of living".

136. The representative of the United Kingdom proposed orally the insertion of the word "adequate" before "food, clothing and housing".

137. The representative of Syria proposed orally that the words "based on free consent" should be added after the words "international co-operation".

Issues discussed

138. There was general agreement in the Committee that articles 11 and 12 as drafted by the Commission on Human Rights should be combined, it having been recognized that they were closely interrelated, since adequate food, clothing and housing were component elements of an adequate standard of living.

139. One of the issues discussed by the Committee was whether the word "adequate" which qualified "standard of living" should be replaced by "decent" as proposed in the Philippine amendment (A/C.3/L.580). Those who preferred the latter term felt that it was more appropriate as it indicated a higher standard than a merely "adequate" one. An "adequate" standard of living might be interpreted to cover only the bare necessities of life. Moreover, the term "decent" was used in article 7, which spoke of a "decent living". On the other hand, it was maintained that "decent" had many connotations, whereas "adequate" had a clear and well-understood meaning.

140. The text submitted by the Working Party referred to an "adequate standard of living, including food, clothing and housing". The insertion of the word "adequate" before "food, clothing and housing", proposed by the United Kingdom, was favoured as it would add to the meaning of the provision by stressing that each of these elements must be "adequate". A number of representatives, however, thought that the amendment was unnecessary since the idea of "adequate" food, clothing and housing was implicit in "adequate standard of living".

141. There was some discussion, resulting from the amendment of El Salvador (A/C.3/L.587), on whether a specific reference to the adequate standard of living of the "family" should be incorporated. The inclusion of such a reference was deemed necessary in view of the fundamental importance of the concept of the family in the context of the article. Moreover, it would bring the text of the article into harmony with article 25, paragraph 1, of the Universal Declaration of Human Rights. On the other hand, it was pointed out that the word "everyone" in the text included the family. If a specific reference to a family were made in article 11, the article might be interpreted as applying only to individuals with families.

142. Considerable discussion arose over the second sentence of the text of the Working Party, which laid

down that "The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation." This sentence replaced the amendments submitted by Poland (A/C.3/L.532, point 3) and Chile and Japan (A/C.3/L.585). Those who opposed its inclusion in the article maintained that it was unnecessary to specify the obligation of States to take steps to implement the right enunciated in the article, as article 2 of the draft Covenant embodied a general implementation clause which applied to all the rights set forth in the Covenant. The reference to international co-operation was likewise unnecessary since the matter was fully covered not only in article 2, but also in articles 17 to 25. To add a specific implementation clause in article 11 would undermine the structure of the Covenant. Moreover, the insertion of implementation provisions in different articles in varying terms might lead to the establishment of a hierarchy of obligations. Some representatives pointed out that the clause proposed for inclusion in article 11 did not indicate that implementation was to be achieved "progressively". It might be interpreted as binding States to ensure an adequate standard of living for everyone immediately. On the other hand, it was maintained that the right involved was so fundamental that there could be no valid objection to the inclusion of an implementation clause in the article. Moreover, article 2, which contained a general implementation clause, still remained to be considered and might not be adopted in its existing form. Reference to specific measures had been included in several articles of the draft Covenant. The inclusion of a reference to international co-operation in the article which dealt with the question of the standard of living was deemed particularly essential since some countries, especially those which were under-developed, would not be able to provide their people with adequate food, clothing and shelter without international assistance.

Voting on the combined text of articles 11 and 12

143. At the 743rd meeting, the Committee voted on the text of the article prepared by the Working Party (A/C.3/L.586) and the amendments thereto as follows:

(a) The amendment of El Salvador (A/C.3/L.587), inserting after "adequate standard of living" in the first sentence of the text of the Working Party the words "for himself and his family" was adopted by 24 votes to 18, with 19 abstentions.

(b) The amendment submitted orally by the representative of the United Kingdom at the 742nd meeting and supported by the representatives of India and Israel, consisting in the insertion of the word "adequate" before "food, clothing and housing" in the first sentence, was adopted by 38 votes to 3, with 22 abstentions.

(c) The first sentence of the text of the Working Party, as amended, was adopted by 58 votes to none, with 4 abstentions.

(d) The amendment submitted orally by the representative of Syria at the 742nd meeting, consisting in the addition of the words "based on free consent" after "international co-operation" at the end of the second sentence, was adopted by 20 votes to 19, with 21 abstentions.

(e) At the request of the representative of the Philippines, a separate vote was taken on the first part of the second sentence. The words "The States Parties will take appropriate steps to ensure the realization of this right" were adopted by 37 votes to 12, with 14 abstentions.

(f) At the request of Afghanistan, a separate vote was taken on the word "essential" in the second part of the

second sentence. The word was adopted by 19 votes to 12, with 34 abstentions.

(g) At the request of India, a separate vote was taken on the second part of the second sentence as amended. The words "recognizing to this effect the essential importance of international co-operation based on free consent" were adopted by 31 votes to 14, with 17 abstentions.

(h) The text of the article as a whole, as amended, was adopted by 48 votes to none, with 16 abstentions.

Text as adopted

144. The text of the combined articles 11 and 12, as adopted by the Committee, reads as follows:

"The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent."

ARTICLE 13 OF THE DRAFT COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

145. Article 13 of the draft Covenant on Economic, Social and Cultural Rights, as submitted by the Commission on Human Rights (E/2573, annex I A), read as follows:

"1. The States Parties to the Covenant, realizing that health is a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity, recognize the rights of everyone to the enjoyment of the highest attainable standard of health.

"2. The steps to be taken by the States Parties to the Covenant to achieve the full realization of this right shall include those necessary for:

"(a) The reduction of infant mortality and the provision for healthy development of the child;

"(b) The improvement of nutrition, housing, sanitation, recreation, economic and working conditions and other aspects of environmental hygiene;

"(c) The prevention, treatment and control of epidemic, endemic and other diseases;

"(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness."

The Committee considered the article at its 743rd, 744th and 746th to 748th meetings.

Amendments submitted

146. Amendments were submitted by Afghanistan and the Philippines (A/C.3/L.589) and by Italy and Uruguay (A/C.3/L.590 and A/C.3/L.590/Rev.1). Sub-amendments were submitted by Poland (A/C.3/L.591) and Belgium (A/C.3/L.593) to the joint Afghan and Philippine amendments (A/C.3/L.589).

147. The amendments of Afghanistan and the Philippines (A/C.3/L.589) were as follows:

(1) Renumber the article as article 12.

(2) Paragraph 1:

(a) After the word "Covenant" delete the following words: "realizing that health is a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity".

(b) After the words "standard of", insert the words "physical, mental, moral and social well-being".

(3) *Paragraph 2 (a) :*

(a) Transpose the words "the provision for healthy development of the child" to the beginning of the paragraph.

(b) After the word "child" add the word "and" followed by the words "the reduction of infant mortality."

(4) Replace paragraph 2 (b) by the following text: "(b) The improvement of all aspects of environmental and industrial hygiene;"¹

The article as thus amended read as follows :

"1. The States Parties to the Covenant recognize the right of everyone to the highest attainable standard of physical, mental, moral and social well-being ;

"2. The steps to be taken by the States Parties to the Covenant to achieve the full realization of this right shall include those necessary for :

"(a) The provision for healthy development of the child and the reduction of infant mortality ;

"(b) The improvement of all aspects of environmental and industrial hygiene ;

"(c) The prevention, treatment and control of epidemic, endemic and other diseases ;

"(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness."

At the 746th meeting, the sponsors orally revised point 2 (b) of their amendments to insert the words "physical, mental and social" before the word "health". They also accepted the Belgian sub-amendment (A/C.3/L.593) and accordingly revised their amendment to paragraph 2 (a) of article 13 to read as follows: "The provision for the reduction of the still-birth rate and of infant mortality and for the healthy development of the child." At the same meeting, the representative of Afghanistan announced that he would not press for a vote on point 1 of the joint amendment, relating to the renumbering of the article.

148. The amendment of Italy and Uruguay (A/C.3/L.590) called for the addition of the following new paragraph :

"3. Nothing in this article may be interpreted as authorizing the imposition of medical treatment² against the will of the individual concerned, except when provided by law in the interest of public health. The law cannot violate the limits required by respect for the human person."

The amendment was subsequently revised (A/C.3/L.590/Rev.1) to read as follows :

"3. Everyone is under a duty to care for his health and to undergo appropriate medical treatment.

"Nothing in this article may be interpreted as authorizing the compulsory imposition of particular medical treatment, except as provided by law for reasons of public health. The law may not go beyond the limits imposed by respect for the human person."

149. The Polish sub-amendment (A/C.3/L.591) to the amendments of Afghanistan and the Philippines (A/C.3/L.589) called for the addition, after paragraph 2 (c) of

¹ In the provisional version of document A/C.3/L.589, this phrase read: "and the improvement of other aspects of environmental hygiene".

² In the provisional text of document A/C.3/L.590, the words "sanitary treatments" had been used instead of the words "medical treatment".

the article, of the following sub-paragraph: "(d) The prevention, treatment and control of occupational diseases". At the 747th meeting, the representative of Poland accepted the suggestion of the United Kingdom representative that this sub-amendment could be incorporated in paragraph 2 (c) by inserting "occupational" before "and other diseases".

150. The Belgian sub-amendment (A/C.3/L.593) to the amendment of Afghanistan and the Philippines (A/C.3/L.589) was to replace paragraph 2 (a) of the article by the following text: "The reduction of the still-birth rate and of infant mortality, and for the development of the child". At the 747th meeting, the representative of Belgium withdrew his sub-amendment, which had been accepted by the sponsors of the joint amendments (A/C.3/L.589).

Issues discussed

151. One of the issues discussed was whether the definition of "health" contained in paragraph 1 of the original text of the article should be deleted or retained. Those who favoured its deletion, as proposed in the amendment of Afghanistan and the Philippines (A/C.3/L.589), felt that a definition of health was unnecessary. Moreover, the definition itself was deemed unsatisfactory as it might be incomplete. On the other hand, those who preferred retention of the definition held that it was useful, since it would remove the obscurity which surrounded the term "health". The definition, which conformed closely with the provisions of the Constitution of the World Health Organization, stressed a positive approach and established the now well-recognized relationship between disease and social environment.

152. Discussion also arose over the amendment of Afghanistan and the Philippines (A/C.3/L.589) replacing the words "highest attainable standard of health" by the words "highest attainable standard of physical, mental, moral and social well-being". Several delegations felt that the word "health" should be retained, since health was the subject of the article as a whole. The inclusion of a new concept, "moral well-being", was thought inappropriate and out of place in the article. In view of those observations, the sponsors of the joint amendment revised their text orally to read "highest attainable standard of physical, mental and social health". However, the term "social health" in the revised formulation was objected to also, on the ground that it was not clear.

153. Another issue discussed was whether or not a reference to the reduction of the "still-birth rate" should be made in paragraph 2 (a). Discussion of this problem arose in connexion with the Belgium sub-amendment (A/C.3/L.593) to the amendment of Afghanistan and the Philippines (A/C.3/L.589). It was pointed out that paragraph 2 (a), which spoke of the reduction of infant mortality and the healthy development of the child, would be incomplete without a reference to the reduction of the still-birth rate. It was explained that the term "infant mortality" did not include "still-birth", since the former referred to the death of children who were born alive but died at any time within the first twelve months of life, whereas the term "still-birth" referred to a condition of death determined before or at the time of delivery. It was logical to speak first of measures to reduce the still-birth rate before speaking of measures to reduce infant mortality. On the other hand, the Belgian sub-amendment was opposed, on the ground that the subject of pre-natal care was already covered adequately in article 10 of the draft Covenant.

154. The question of including in the article a reference to "occupational diseases", as proposed in the Polish

sub-amendment (A/C.3/L.591), led to some discussion. Those who favoured the sub-amendment claimed that it was essential to mention occupational diseases explicitly in order to stress the duty of the State to protect workers from such diseases. On the other hand, a number of representatives maintained that the sub-amendment was unnecessary since the words "and other diseases" in paragraph 2 (c) included occupational diseases. Moreover, the question of the protection of workers against occupational diseases was covered by the provisions of articles 7 and 9 of the draft Covenant.

155. There was considerable discussion, resulting from the presentation of the joint amendment of Italy and Uruguay (A/C.3/L.590 and A/C.3/L.590/Rev.1), as to whether the article should provide some safeguards against compulsory medical treatment. It was contended that article 13, while it was concerned with protecting the health of the individual, should specify the limits beyond which he could not be compelled to accept medical treatment. A proper balance between the interests of the community, on the one hand, and those of the individual, on the other, should be maintained. The provisions of article 4 of the draft Covenant, which defined the circumstances in which the rights enunciated in the Covenant could be subjected to limitations by the State, did not cover the point raised in the joint amendment submitted by Italy and Uruguay. Neither was the matter covered by article 7 of the draft Covenant on Civil and Political Rights (E/2573, annex I B), since that article referred specifically to torture, degrading treatment or punishment and medical experimentation without the consent of the individual. On the other hand, those who opposed the joint amendment, while recognizing its laudable purpose, pointed out the practical difficulties which it raised. The amendment would interfere with the doctor-patient relationship. Moreover, it did not deal adequately with the complex question of consent to medical treatment. There were many cases in which medical treatment was and should be given without the patient's consent, such as, for example, where the patient was unconscious or insane or incapable, for some other reason, of giving his consent. Furthermore, the joint amendment, if adopted, would raise the question whether similar limitations were applicable in connexion with the other articles. The view was also expressed that the idea embodied in the joint amendment was covered by the provisions of articles 4 and 5 of the draft Covenant on Economic, Social and Cultural Rights, as well as by article 7 of the draft Covenant on Civil and Political Rights.

Voting on article 13

156. At the 747th meeting, the Committee voted on the text of article 13 and on the amendments as follows:

(a) The amendment of Afghanistan and the Philippines (A/C.3/L.589), deleting the words "realizing that health is a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity" from paragraph 1 of the original text was adopted by 31 votes to 15, with 13 abstentions.

(b) At the request of the representative of Saudi Arabia, a separate vote was taken on the words "and social" in the phrase "physical, mental and social" in point 2 (b) of the amendments submitted by Afghanistan and the Philippines (A/C.3/L.589) as orally revised at the 746th meeting. The words "and social" were rejected by 31 votes to 14, with 17 abstentions.

(c) The remainder of the joint amendments, namely, the insertion of the words "physical and mental" before "health" in paragraph 1, was adopted by 37 votes to 2, with 22 abstentions.

(d) Paragraph 1 of the article, as a whole, as amended, was adopted by 57 votes to none, with 4 abstentions.

(e) At the request of the representative of New Zealand, a separate vote was taken on the words "the provision for" in point 3 (a) of the joint amendments (A/C.3/L.589) as orally revised at the 746th meeting. The words were adopted by 15 votes to 11, with 32 abstentions.

(f) At the request of the representative of Saudi Arabia, a separate vote was taken on the words "the still-birth rate" in point 3 (a) of the joint amendments (A/C.3/L.589) as orally revised at the 746th meeting. The words were adopted by 35 votes to 7, with 19 abstentions.

(g) At the request of the representative of Australia, a separate vote was taken on the words "all aspects of" in point 4 of the joint amendments (A/C.3/L.589). The words were adopted by 28 votes to 2, with 31 abstentions.

(h) The Polish sub-amendment (A/C.3/L.591), as orally revised, consisting in the insertion of the word "occupational" before "and other diseases" in paragraph 2 (c), was adopted by 39 votes to none, with 19 abstentions.

(i) Paragraph 2 of the article as a whole, as amended, was adopted by 57 votes to none, with 4 abstentions.

(j) A proposal by the representative of Israel for a separate vote on the first sentence of the text proposed in the revised amendment submitted by Italy and Uruguay (A/C.3/L.590/Rev.1) was rejected by 18 votes to 9, with 31 abstentions.

(k) A proposal by the representative of Portugal for a separate vote on the last sentence of the text proposed in the revised amendment (A/C.3/L.590/Rev.1) was rejected by 18 votes to 6, with 35 abstentions.

(l) The revised amendment submitted by Italy and Uruguay (A/C.3/L.590/Rev.1) was rejected by 35 votes to 4, with 22 abstentions.

(m) Article 13 as a whole, as amended, was adopted by 54 votes to none, with 7 abstentions.

Text as adopted

157. Article 13, as adopted by the Committee, reads as follows:

"1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

"2. The steps to be taken by the States Parties to the Covenant to achieve the full realization of this right shall include those necessary for:

"(a) The provision for the reduction of the still-birth rate and of infant mortality and for the healthy development of the child;

"(b) The improvement of all aspects of environmental and industrial hygiene;

"(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

"(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness."

Recommendation of the Third Committee

158. The Third Committee was unable to complete its examination of the draft International Covenants on Human Rights at the eleventh session of the General

Assembly. It therefore recommends that the General Assembly should continue its consideration of the draft Covenants at its twelfth session.

159. Attention is drawn in this connexion to a draft resolution adopted by the Committee at its 753rd meeting (see A/3524) relating to agenda item 60 (Interim measures, pending entry into force of the Covenants on Human Rights, to be taken with respect to violations of the human rights set forth in the Charter of the United Nations and the Universal Declaration of Human Rights). Under operative paragraph 1 of that draft resolution the General Assembly would decide that:

“(a) The Third Committee should devote enough time to its discussion of the draft International Covenants on Human Rights to be able to complete its consideration of the draft Covenants, if possible by the end of the thirteenth session of the General Assembly for adoption by the Assembly at that session;

“(b) The Third Committee should discuss, at the beginning of the twelfth session of the General Assembly, how many meetings should be devoted to the consideration of the draft International Covenants on Human Rights”.

ACTION TAKEN BY THE GENERAL ASSEMBLY

At its 656th plenary meeting, on 20 February 1957, the General Assembly decided to continue its consideration of the draft International Covenants on Human Rights at its twelfth session.

CHECK LIST OF DOCUMENTS

NOTE. This check list includes all the documents mentioned during the consideration of agenda item 31 which are not reproduced in the present fascicle.

Document No.	Title	Observations and references
A/2907 and Add.1 and 2	Memorandum by the Secretary-General	Official Records of the General Assembly, Tenth Session, Annexes, agenda item 28 (Part I)
A/2910 and Add.1 to 6	Observations by Governments	Ibid.
A/2929	Annotations on the text of the draft International Covenants on Human Rights (E/2573, annex I)	Ibid., agenda item 28 (Part II)
A/3077	Report of the Third Committee	Ibid., agenda item 28 (Part I)
A/C.3/L.460	Working paper prepared by the Secretary-General	Ibid.
A/C.3/L.528	Procedure for the consideration of the draft Covenants: statement by the Chairman	Incorporated in substance in A/3525, para. 2
A/C.3/L.530	Afghanistan: amendments to article 6 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 15
A/C.3/L.531	Afghanistan and Chile: procedural proposal	Incorporated in A/3525, para. 4
A/C.3/L.532	Poland: amendments to the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, paras. 16, 33 and 122
A/C.3/L.533	Spain: amendment to article 6 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 17
A/C.3/L.534	United Kingdom of Great Britain and Northern Ireland: amendment to article 6 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 18
A/C.3/L.535	Colombia: amendment to article 6 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 19
A/C.3/L.536	Greece: amendment to article 6 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 20
A/C.3/L.537	Guatemala: amendment to article 6 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 21
A/C.3/L.538	Spain: amendment to article 7 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 48
A/C.3/L.539	Italy: amendment to article 6 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 22
A/C.3/L.540	Uruguay: amendment to article 7 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 36
A/C.3/L.541	Netherlands: amendment to article 7 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 42
A/C.3/L.542	Afghanistan: amendments to article 7 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 43
A/C.3/L.542/Rev.1	Afghanistan: revised amendment to article 7 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Ditto

Document No.	Title	Observations and references
A/C.3/L.543	Afghanistan and Netherlands: amendment to article 7 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 45
A/C.3/L.544	Chile and Peru: amendment to the Spanish text of article 7 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 46
A/C.3/L.545	Greece and Uruguay: amendments to article 7 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 38
A/C.3/L.545/Rev.1	Greece and Uruguay: revised amendments to article 7 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 39
A/C.3/L.546	Guatemala: amendment to article 7 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 47
A/C.3/L.547	Union of Soviet Socialist Republics: amendment to article 8 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 56
A/C.3/L.548	Dominican Republic: amendment to document A/C.3/L.545	Incorporated in A / 3525, para. 41
A/C.3/L.549	Uruguay: amendment to article 8 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 57
A/C.3/L.550	Netherlands and United Kingdom of Great Britain and Northern Ireland: amendment to article 8 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 58
A/C.3/L.551	Note by the Chairman concerning the order of voting on article 7 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A) and amendments thereto	Mimeographed
A/C.3/L.552	Bolivia, Peru and Uruguay: amendments to article 8 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 59
A/C.3/L.552/Rev.1	Bolivia, Peru and Uruguay: revised amendments to article 8 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 62
A/C.3/L.552/Rev.2	Bolivia, Peru and Uruguay: revised amendments to article 8 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 63
A/C.3/L.553	Canada: amendment to article 8 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 60
A/C.3/L.554	Canada: amendment to document A/C.3/L.552	Ditto
A/C.3/L.555	Netherlands and United Kingdom of Great Britain and Northern Ireland: amendments to document A/C.3/L.552/Rev.1	Incorporated in A / 3525, para. 65
A/C.3/L.556	Union of Soviet Socialist Republics: amendment to article 9 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 78
A/C.3/L.557	Netherlands: amendment to article 10 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 88
A/C.3/L.558	Bulgaria: amendment to article 10 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 89
A/C.3/L.559	Union of Soviet Socialist Republics: amendment to article 10 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 90
A/C.3/L.560	Afghanistan: amendment to article 9 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 79
A/C.3/L.561	Saudi Arabia: amendment to article 10 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 91
A/C.3/L.562	Chile and Peru: amendment to article 10 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 92
A/C.3/L.563	Ecuador and Greece: amendments to article 10 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 93
A/C.3/L.564	Italy: amendment to article 10, of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 94
A/C.3/L.565	Uruguay: amendments to article 10 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, para. 95
A/C.3/L.566	Afghanistan: amendment to document A/C.3/L.562	Incorporated in A / 3525, para. 96
A/C.3/L.567	Afghanistan: amendment to document A/C.3/L.563	Incorporated in A / 3525, para. 97
A/C.3/L.568	Afghanistan: amendment to document A/C.3/L.557	Incorporated in A / 3525, para. 98
A/C.3/L.569	Afghanistan: amendment to document A/C.3/L.564	Incorporated in A / 3525, para. 99
A/C.3/L.570	Report of the Working Party on article 10 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A / 3525, paras. 100 and 101

Document No.	Title	Observations and references
A/C.3/L.571	Sweden: amendment to the text of article 10 of the draft Covenant on Economic, Social and Cultural Rights, as contained in the report of the Working Party (A/C.3/L.570)	Incorporated in A/3525, para. 103
A/C.3/L.572	Bulgaria: amendment to the text of article 10 of the draft Covenant on Economic, Social and Cultural Rights, as contained in the report of the Working Party (A/C.3/L.570)	Incorporated in A/3525, para. 105
A/C.3/L.573	Chile: amendment to document A/C.3/L.571	Incorporated in A/3525, para. 104
A/C.3/L.574	United Kingdom of Great Britain and Northern Ireland: amendments to the text of article 10 of the draft Covenant on Economic, Social and Cultural Rights, as contained in the report of the Working Party (A/C.3/L.570)	Incorporated in A/3525, para. 106
A/C.3/L.575	Romania: amendment to the text of article 10 of the draft Covenant on Economic, Social and Cultural Rights, as contained in the report of the Working Party (A/C.3/L.570)	Incorporated in A/3525, para. 107
A/C.3/L.576	Denmark: amendment to the text of article 10 of the draft Covenant on Economic, Social and Cultural Rights, as contained in the report of the Working Party (A/C.3/L.570)	Incorporated in A/3525, para. 108
A/C.3/L.577	Union of Soviet Socialist Republics: amendment to the text of article 10 of the draft Covenant on Economic, Social and Cultural Rights, as contained in the report of the Working Party (A/C.3/L.570)	Incorporated in A/3525, para. 109
A/C.3/L.578	Afghanistan: amendment to article 11 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 123
A/C.3/L.579	Guatemala: amendment to article 11 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 124
A/C.3/L.580	Philippines: amendments to articles 11 and 12 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 126
A/C.3/L.581	Saudi Arabia: amendments to articles 11 and 12 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 127
A/C.3/L.582	United Kingdom of Great Britain and Northern Ireland and Uruguay: amendments to articles 11 and 12 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 128
A/C.3/L.583	Dominican Republic, Ecuador and El Salvador: amendment to articles 11 and 12 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 129
A/C.3/L.584	Afghanistan: amendment to document A/C.3/L.582	Incorporated in A/3525, para. 130
A/C.3/L.585	Chile and Japan: amendment to document A/C.3/L.582	Incorporated in A/3525, para. 131
A/C.3/L.586	Report of the Working Party on articles 11 and 12 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, paras. 132-133
A/C.3/L.587	El Salvador: amendment to the combined text of articles 11 and 12 of the draft Covenant on Economic, Social and Cultural Rights contained in the report of the Working Party (A/C.3/L.586)	Incorporated in A/3525, para. 135
A/C.3/L.589	Afghanistan and the Philippines: amendments to article 13 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 147
A/C.3/L.590	Italy and Uruguay: amendment to article 13 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Incorporated in A/3525, para. 148
A/C.3/L.590/Rev.1	Italy and Uruguay: revised amendment to article 13 of the draft Covenant on Economic, Social and Cultural Rights (E/2573, annex I A)	Ditto
A/C.3/L.591	Poland: amendment to document A/C.3/L.589	Incorporated in A/3525, para. 149
A/C.3/L.593	Belgium: amendment to document A/C.3/L.589	Incorporated in A/3525, para. 150
E/2573-E/CN.4/705	Report of the Commission on Human Rights on its tenth session (23 February - 16 April 1955)	<i>Official Records of the Economic and Social Council, Eighteenth Session, Supplement No. 7</i>

MEETINGS AT WHICH AGENDA ITEM 31 WAS DISCUSSED

A/C.3/SR.709-748	Summary records of the 709th to 748th meetings of the Third Committee
A/PV.656	Verbatim record of the 656th plenary meeting of the General Assembly