



Economic and Social Council

Distr.
GENERAL

E/CN.4/1988/28
6 April 1988

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Forty-fourth session
Agenda item 13

QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD

Report of the working group on a draft convention on the rights of the child

Chairman-Rapporteur: Mr. Adam Lopatka (Poland)

CONTENTS

	<u>Paragraphs</u>	<u>Pages</u>
INTRODUCTION	1-8	3-4
I. PROVISIONS ADOPTED BY THE WORKING GROUP AT ITS 1988 SESSION.....	9-220	4-45
A. <u>Substantive articles</u>	9-79	4-20
1. Preamble, additional paragraph (Special consideration for children living in exceptionally difficult conditions)*.....	9-13	4-5
2. Article 1 <u>bis</u> (Right to life, child's survival and development).....	14-26	5-7
3. Article 5 <u>bis</u> (Parental direction and guidance).....	27-34	7-9
4. Article 7a (Freedom of expression and information)...	35-46	9-13
5. Article 7 <u>ter</u> (Freedom of association and freedom of peaceful assembly).....	47-54	13-14
6. Article 7 <u>quater</u> (Privacy, honour, reputation).....	55-59	14-15
7. Article 12 <u>bis</u> , revision (Health and access to care).	60-62	15-17
8. Article 14, paragraph 4 (Recovery of maintenance)....	3-65	17
9. Article 18 <u>sixt</u> (Physical and psychological recovery and social reintegration).....	66-70	17-18
10. Article 20, additional sentence to paragraph 2 (Armed conflicts).....	71-79	19-20

*/ Parenthetical references to the subject of each article are for ease of reference only, such references are not part of the texts as adopted.

	<u>Paragraphs</u>	<u>Pages</u>
B. <u>Implementation provisions</u>	80-208	20-41
1. Article 22 (Establishment of the committee).....	80-113	20-27
2. Article 23 (Reports from States parties).....	114-166	27-34
3. Article 24 (Methods of work of the committee).....	167-208	34-41
C. <u>Final clauses</u>	209-220	42-45
1. Article 25 (Signature/ratification).....	210	42
2. Article 26 (Amendments).....	211-212	42-43
3. Article 27 (Entry into force).....	213	43
4. Article 28 (Reservations).....	214-217	43-44
5. Article 29 (Denunciation).....	218	44
6. Article 30 (Notifications to the Secretary-General)..<	219	44-45
7. Article 31 (Authentic texts).....	220	45
II. PROPOSALS DISCUSSED, BUT NOT ADOPTED BY THE WORKING GROUP.....	221-234	45-48
A. <u>Proposals deferred to the second reading</u>		
1. Article 1 <u>bis</u> (Prevention of discrimination, particularly on the grounds of sex).....	221	45
2. Article 19, paragraph 2(c)(ii) (Assistance to children in detention).....	222	45-46
3. Article 20, revision (Armed conflicts).....	223	46
B. <u>Proposals withdrawn</u>		
1. Article 1 (Child-age).....	224-225	46-47
2. Article 4 <u>bis</u> (Children born out of wedlock).....	226-230	47
3. Article 23 <u>bis</u> (Federal States).....	231-234	48
C. <u>Other Proposals</u>		
1. Article 1, revision (Child-age).....	235	48
2. Article 16, sub-paragraph (e) to paragraph 1 (Objectives of education).....	235	48
3. Article 21, New paragraph 2 (Rights and duties for the upbringing and well-being of the child).....	235	49
4. Article 21, paragraph 2 (Effect on rights recognized elsewhere).....	235	49
5. Article 23, paragraph 2 (Reports from States parties)	235	49
III. OTHER QUESTIONS.....	236-248	49-52
A. Numbering of articles in the draft convention.....	236	49
B. Technical review of the draft convention.....	237-248	52
IV. ADOPTION OF THE REPORT.....	249-254	53

INTRODUCTION

1. The Commission on Human Rights decided, at its forty-third session, by resolution 1987/48, to continue its work on the elaboration of the draft convention on the rights of the child as a matter of the highest priority, and requested the Economic and Social Council to authorize a one-week session of an open-ended working group prior to the forty-fourth session of the Commission, with a view to completing the work on the draft convention. The Council so decided at its first regular session of 1987 by its resolution 1987/58. The General Assembly, by its resolution 42/101, inter alia, requested the Secretary-General to authorize the convening of the open-ended working group of the Commission for an additional week at its January 1988 session, if necessary and within existing resources, in order to complete the draft convention so as to facilitate its conclusion in 1989.

2. The working group held 22 meetings from 25 January to 5 February 1988 and on 7 and 10 March 1988. It adopted an additional paragraph of the preamble, articles 1 bis, 5 bis, 7a, 7 ter, 7 quater, 12 bis (revised), paragraph 4 of article 14, article 18 sixt, an additional sentence to paragraph 2 of article 20, as well as articles 22 through 31 inclusive. The text of the draft convention as adopted by the working group is contained in document E/CN.4/1988/WG.1/WP.1/Rev.2.

Elections

3. At the first meeting of the pre-sessional working group on 25 January 1988, Mr. Adam Lopatka (Poland) was elected Chairman-Rapporteur by acclamation.

Question of new proposals

4. At the beginning of the session, the working group established a deadline of 29 January 1988 for the submission of new proposals.

Participation

5. The meetings of the working group, which were open to all members of the Commission on Human Rights, were attended by representatives of the following States: Algeria, Argentina, Bangladesh, Belgium, Brazil, Bulgaria, China, Colombia, Cyprus, France, German Democratic Republic, Germany, Federal Republic of, India, Iraq, Italy, Japan, Mexico, Nigeria, Norway, Pakistan, Peru, Philippines, Portugal, Senegal, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

6. The following States, non-members of the Commission on Human Rights, were represented by observers at the meetings of the working group: Australia, Austria, Canada, Cuba, Czechoslovakia, Egypt, Finland, Holy See, Jordan, Kenya, Morocco, Netherlands, Poland, New Zealand, Sweden, Switzerland, Yemen, Zimbabwe.

7. The United Nations Children's Fund, the United Nations High Commissioner for Refugees, the International Labour Organisation, and the Inter-American Children's Institute of the Organization of American States were represented at the working group as observers.

8. The following non-governmental organizations sent observers to the working group: Amnesty International, Associated Country Women of the World, Baha'i International Community, Caritas Internationalis, Defence for Children International Movement, Friends World Committee for Consultation, Human Rights Internet, Indian Council of South America, International Abolitionist Federation, International Association of Democratic Lawyers, International Association of Juvenile and Family Court Magistrates, International Association of Penal Law, International Catholic Child Bureau, International Committee of the Red Cross, International Council of Jewish Women, International Council on Social Welfare, International Federation of Human Rights, International Federation of Women in Legal Careers, International Movement ATD Fourth World, International Right to Life Federation, Rädda Barnen International, Save the Children Alliance, Save the Children Fund (UK), World Association for the School as an Instrument of Peace, World Federation of Democratic Youth, World Federation of Methodist Women, Zonta International.

I. PROVISIONS ADOPTED BY THE WORKING GROUP AT ITS 1988 SESSION

A. Substantive articles

1. Preamble, additional paragraph (Special consideration for children living in exceptionally difficult conditions)*

9. Italy, upon the suggestion of some non-governmental organizations, proposed the addition of an eighth paragraph to the preamble (E/CN.4/1988/WG.1/WP.24) which read as follows:

"Recognizing that there are in the world children living in exceptionally difficult conditions which do not correspond to those generally obtaining in their country, and that such children need special consideration."

10. The view was expressed that this proposal would entail undesirable discrimination as it singled out one specific category of children that required special consideration. The following alternative wordings were proposed:

"Recognizing that children who live in exceptionally difficult situations need special consideration,"

"Recognizing that there are in the world children who live in exceptionally difficult conditions, and that such children need special consideration,"

"Recognizing the special needs of children living in exceptionally difficult conditions which do not correspond to those generally obtaining in their own country,"

11. The view was also expressed that the situation of children living in permanently exceptionally difficult conditions was a reality which should be mentioned; attention should be given to the difficult situation of children living in a particular society where all children were supposedly living well. It was recalled that the proposal made in working paper 24 had been discussed in the context of the question of national reports and concerned children living in conditions which did not correspond to those generally prevailing in their country. On the other hand, it was said that positive discrimination regarding children in difficult conditions would be acceptable in general terms but should not be included in the preamble to the convention so as not to restrict it.

12. A small drafting group was established (Holy See, United Kingdom, Venezuela) and, with the collaboration of Argentina and Spain, submitted the following text:

"Recognizing that, in rich as well as in poor countries, there are children living in exceptionally difficult conditions, and that such children need special consideration,"

13. Most of the participants strongly supported the proposal to replace the words "in rich as well as in poor countries" by "in all countries in the world" in order not to restrict the idea that marginalized children needed special consideration wherever they might be. The eighth preambular paragraph, as adopted, read as follows:

"Recognizing that in all countries in the world there are children living in exceptionally difficult conditions, and that such children need special consideration,"

2. Article 1 bis (Right to life, child's survival and development)*

14. The working group had before it a proposal submitted by India (E/CN.4/1988/WG.1/WP.13) which read as follows:

"Article 1 bis or 2 bis

"The States Parties to the present Convention undertake to create an environment, within their capacities and constitutional processes, which ensures, to the maximum extent possible, the survival and healthy development of the child."

15. During the course of the debate, several governmental representatives commented that the concept of survival was not legally defined and one representative expressed the belief that it could even prove harmful to the concept of the right to development, as her delegation understood it. A number of specific amendments were proposed and the following alternative wordings were suggested:

"The States Parties to the present Convention shall respect the right of the child to survival. The States Parties shall, within their capacities and constitutional processes, take all necessary measures to ensure, to the maximum extent possible, the survival and healthy development of the child."

"The States Parties to the present Convention undertake to promote conditions which ensure, to the maximum extent possible, the survival of the child."

"The States Parties to the present Convention undertake to create within the available resources the psychosocial conditions which will guarantee, to the maximum extent possible, the life and the full development of the child."

"The States Parties to the present Convention undertake to promote conditions which guarantee the life and healthy development of the child."

16. At the request of the Chairman, the observer for the United Nations Children's Fund explained what the Fund understood by survival.

17. The representative of India was of the view that the right to survival should be stressed, bearing in mind, as indicated by UNICEF, that many children died from preventable causes and that children could also survive in very poor conditions, the right to survival should be supplemented by the notion of healthy development.

18. The discussions focused mainly on the definition of the concepts of survival, right to survival, right to development and the child's development. The view was expressed that life and survival were complementary and were not mutually exclusive, and that survival could even mean the diminution of infant mortality. In this regard, the Italian representative remarked that the international norm concerning the right to life, contained in the Universal Declaration of Human Rights (art. 3) and expressed, through a different formulation, in article 6 of the International Covenant on Civil and Political Rights, has the nature of an intransgressible norm (jus cogens). The Italian representative insisted therefore that a specific provision on the right to life be inserted. Others observed that, in discussing the inclusion of a child's right to life, the working group had agreed not to reopen the discussion concerning the moment at which life begins.

19. It was stated that the right to survival carried with it a more positive connotation than the right to life, it meant the right to have positive steps taken to prolong the life of the child. The view was further expressed that conditions should be defined in order to permit the exercise of the right to life, and not the right to mere survival. Two speakers stated that, despite the explanations that had been given on the word "survival", they continued to have serious doubts about the inclusion of this concept in the convention. The following text was proposed:

"The States Parties to the present Convention undertake to promote conditions which protect, to the maximum extent possible, the life of the child."

20. The following texts were also proposed:

"The States Parties to the present Convention undertake to promote conditions which ensure, to the maximum extent possible, the survival and healthy development of the child." (the word "survival" in English to be put in brackets in the French and Spanish texts)

"States Parties shall protect the right to life of children and ensure the survival and healthy development of children."

21. In summing up the debate, the Chairman-Rapporteur stated that the right to life had been omitted from the draft convention, and that the proposal made in working paper 13 was intended to remedy that shortcoming. The right to life, already enshrined in the International Covenants on Human Rights should be included in the draft convention and listed as a priority before other rights of the child. The approach to the right to life in the Covenants was rather negative, while that of the convention should be positive and should take into account economic, social and cultural conditions. He proposed that a small drafting group (Argentina, Bulgaria, India, Italy, Norway, UNICEF and the United Kingdom) should work out a compromise text.

22. The small drafting group submitted the following compromise text:

"1. The States Parties to the present Convention recognize that every child has the inherent right to life."

"2. States Parties shall ensure, to the maximum extent possible, the survival and development of the child."

23. The representative of India stated that the text had been drafted in order to cover the following main concerns: (a) the inherent right to life of the child, and (b) the focus on obligations for States parties to promote measures and conditions for the survival and development of the child.

24. After an extensive discussion, the representative of Venezuela said she would yield to the working group, simply and solely to enable work to go forward on the text of the convention, but that she regretted the inclusion of paragraph 2 of the proposed compromise text since, in her view, it will diminish the concept of the right to life conferred on all human beings in existing international instruments; she requested that some thought should be given to that, and that her position should be reflected in the report to be submitted to the Commission on Human Rights.

25. The observer for the Holy See stated that it recognized the rights of the child began before birth. The Holy See affirmed that a child and its life existed from the moment of conception which was the transmission of life in marriage to which the mission of transmitting life was exclusively entrusted. Consequently, a conceived child was entitled to rights. Human life shall absolutely be respected and protected from the moment of conception.

26. The working group finally adopted the text submitted by the small drafting group.

3. Article 5 bis (Parental direction and guidance)*

27. Australia, Austria, the Netherlands, and the United States of America submitted the following proposal (E/CN.4/1988/WG.1/WP.22):

"Article 5 ter

"The States Parties to the present Convention shall respect the rights and duties of the parents and, where applicable, legal guardians, to provide direction to the child in the exercise of his or her rights enumerated in the present Convention in a manner consistent with the evolving capacities of the child, having due regard for the importance of promoting the development of the skills and knowledge required for an independent adulthood."

28. In introducing this proposal, the observer for Australia stated that the proposed article would incorporate into the convention two important general concepts: (a) the evolving capacities of the child, and his or her rights as enumerated in the draft convention, and (b) the rights and duties of the parents who raised the child, who provided guidance to and took primary responsibility for the child.

29. The representative of the Federal Republic of Germany was of the view that the draft convention dealt with the rights of the child and not those of the parents and therefore proposed the insertion of the following paragraph 2 in article 21, as adopted:

"Nothing in this Convention shall affect the right and the duty of parents and, where applicable, legal guardians to take measures as are required for the upbringing and well-being of the child."

30. In the course of the debate, most of the participants expressed the view that article 5 ter in working paper 22 reflected the concerns of the working group. It was recalled that this matter had been discussed at length at past sessions of the working group, resulting in a compromise in article 7 bis, paragraph 3; article 5 ter in working paper 22, based on that compromise, reflected the delicate balance between the rights of children and the correlative rights of parents. If the emphasis was placed on the evolving capacities of the child in accordance with his age, the parents also had a role to play. Attention should be given to the growing child, and to his evolving capacities in a positive environment. The parents' rights in respect of bringing up the child were already well protected in article 8.

31. The representative of the United Kingdom was of the view that the proposed amendment by the Federal Republic of Germany was not as detailed as the proposal made in working paper 22 as to the definition of the duties of parents and proposed the following wording for article 5 ter:

"Nothing in this Convention shall affect the right and duty of parents or, where applicable, legal guardians to provide in a manner consistent with the child's evolving capacities, appropriate direction and guidance to him or her in the exercise of the rights of the child recognized in the present Convention."

32. The representative of Norway expressed the view that article 5 ter in working paper 22 was more consistent with the compromise and delicate balance which were found in article 15 relating to education. He proposed the following rewording of the text proposed by the United Kingdom:

"The States Parties to the present Convention shall respect the responsibilities of parents, or where applicable, legal guardians, to provide in a manner consistent with his or her evolving capacities, appropriate direction and guidance to the child in the exercise of the rights of the child recognized in the present Convention."

33. Several participants expressed their support for the new text. The attention of the working group was drawn to the broader context of article 3 which listed parents, legal guardians, and other individuals legally responsible for the child. Finally, after some amendments proposed by the United Kingdom, the working group reached a consensus and adopted the following article 5 bis:

"The States Parties to the present Convention shall respect the responsibilities, rights, and duties of parents or, where applicable, legal guardians or other individuals legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention."

34. The representative of the Federal Republic of Germany stated that he had joined the consensus on article 5 bis, although the text was not entirely satisfactory to his delegation, largely because article 5 bis addressed the rights of parents only in connection with a responsibility that States would have under the convention, namely to respect the parents' rights. His delegation would favour an interpretational clause which would state clearly that the draft convention was under no circumstances to be interpreted in a way that would affect the rights of parents or legal guardians. Should article 5 bis be retained in its present form or should an interpretational clause not be included so as to meet its concerns, his Government might enter reservations or declarations in case of ratification.

4. Article 7a (Freedom of expression and information)*

35. The working group had before it a proposal submitted by the United States of America on civil and political rights of the child (E/CN.4/1988/WG.1/WP.18) which read as follows:

"I. ADDITIONS TO ARTICLE 7 (FREEDOM OF EXPRESSION)

"1.(Already adopted) The States Parties to the present Convention shall assure to the child who is capable of forming his (or her) own views the right to express his (or her) own opinion freely in all matters, the wishes of the child being given due weight in accordance with his (or her) age and maturity."

"(Additional sentence) This right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice."

"2.(Additional paragraph) The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights and reputations of others; or
- (b) For the protection of national security or of public order (ordre public), or of public health or morals."

"3. (Additional paragraph) States Parties shall respect the rights and duties of parents and, where applicable, legal guardians, to provide direction to the child in the exercise of this right in a manner consistent with the evolving capacities of the child."

"II ARTICLE 7 bis (FREEDOM OF THOUGHT, CONSCIENCE, RELIGION)"

"No changes, except the removal of gender-based language."

"III NEW ARTICLE 7 ter (FREEDOM OF ASSOCIATION, PEACEFUL ASSEMBLY)"

"1. The States Parties to the present Convention recognize the right of the child to freedom of association and freedom of peaceful assembly."

"2. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others."

"3. States Parties shall respect the rights and duties of parents and, where applicable, legal guardians, to provide direction to the child in the exercise of these rights in a manner consistent with the evolving capacities of the child."

"IV. NEW ARTICLE 7 quater (RIGHT TO PRIVACY)"

"The States Parties to the present Convention recognize the right of the child not to be subjected to arbitrary or unlawful interference with his or her right to privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation."

36. In introducing that proposal, the representative of the United States of America stated that children not only had the right to expect certain benefits from their Governments; they also had civil and political rights to protect them from abusive action of their Governments. These rights are largely the same as those enjoyed by adults, although it is generally recognized that children do not have the right to vote. While children might need direction and guidance from parents or legal guardians in the exercise of these rights, this does not affect the content of the rights themselves. The United States proposal was intended to complete the process already begun by the working group of incorporating provisions from the International Covenant on Civil and Political Rights into the draft convention. The proposal reflects the recognition contained in the International Covenant that the ability of all individuals to exercise civil and political rights is not absolute, but is subject to certain limited restrictions that may be imposed by States. The

proposal was designed to incorporate into the draft convention the right to freedom of expression, the right to freedom of association and to peaceful assembly, and certain privacy rights as elaborated in the International Covenant. The representative of the United States reminded the working group that these rights protect children from action of the State, and would not affect the legitimate rights of parents or legal guardians to provide direction and guidance to children.

37. The idea of including civil and political rights in the draft convention to reinforce the protection of children was strongly supported by several participants. However, the legitimate rights of parents and tutors should be safeguarded, the balance between rights of children and rights of the family should be preserved and the wording of the article should be in line with the Covenants.

38. The view was expressed that, if parents should be protected from States, the child should be protected from parents. The following additional paragraph was thus proposed for insertion in article 7 quater:

"States Parties to the present Convention shall respect the right of the child to the protection of law against such interference or attacks."

39. The representative of the United States of America stated that the proposed additional sentence on the freedom to seek, receive and impart information and ideas of all kinds had been taken verbatim from article 19, paragraph 2, of the International Covenant on Civil and Political Rights.

40. The observer for Finland was of the view that criticisms could be avoided if the proposal dealt with the child's right to express opinion instead of the child's freedom of opinion. He proposed the inclusion of paragraphs 2 and 3 of article 7 in a separate article 7 ter:

"1. The child shall have the right to hold opinions.

"2. The child shall have the right of expression: this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice."

41. The representative of China, supporting the view that the child should have the right fully to express its own views on questions concerning it, proposed that article 7 be revised. As to the right of the child to seek, receive and impart information, the second additional sentence could be amalgamated with the first one, to read as follows:

"The States Parties to the present Convention shall assure to the child who is capable of forming his or her own views the freedom to seek, receive and impart information and ideas of all kinds, the right to express his or her own opinion freely in all matters, the wishes of the child being given due weight in accordance with his or her age and maturity."

42. The observer for Morocco reiterated the following reservations made with regard to article 7 bis at previous sessions of the working group: the combination of the provisions in articles 3 and 7 led to the following results: (a) the best interests of the child prevailed over any other consideration; (b) a child who was capable of forming his own views could be heard in a juridical proceeding; (c) the commitment by States to the convention was compulsory regardless of religious considerations. The above rule not only raised a problem of assessment of the best interests of the child and his capacity of forming his own views, but was in contradiction with certain provisions of the Moroccan Code on Personal Status. Furthermore, article 7 bis, which allowed the child (under the age of 18) freely to choose his religion, ran counter to the principles of Muslim law: the child of a Muslim was bound to be a Muslim, and in order to renounce that fact, he had to conform to the rules of Muslim law on the matter.

43. There was a general consensus on not reopening the discussion on texts already adopted. It was stated that article 7, as already adopted, reflected globally all points of view and covered all aspects relating to divorce, adoption, custody and career development concerning minors.

44. A small drafting group (Finland, Poland, Senegal, and the United States of America), referring to article 19 of the International Covenant on Civil and Political Rights, submitted the following text:

"1. The child shall have the right to hold opinions without interference."

"2. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice."

"3. The exercise of this right provided for in paragraph 2 of this article may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights and reputations of others; or

(b) For the protection of national security or of public order (ordre public), or of public health or morals."

"4. States Parties shall respect the rights and duties of parents and, where applicable, legal guardians, to provide direction to the child in the exercise of this right in a manner consistent with the evolving capacities of the child."

45. It was proposed that the words "without interference" should be deleted, since in Spanish, the word "interferencia" meant obstacles, and to incorporate paragraph 1 as amended into paragraph 2 or to delete paragraph 1.

46. The working group reached consensus on deleting paragraph 1, and adopted paragraphs 2 and 3 of article 7a, to be renumbered accordingly, which read as follows:

"1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice."

"2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights and reputations of others; or

(b) For the protection of national security or of public order (ordre public), or of public health or morals."

5. Article 7 ter (Freedom of association and freedom of peaceful assembly)*

47. The representative of the United States of America stated that, in his delegation's proposal (see para. 35 above), freedom of association and freedom of peaceful assembly were combined in one article, even though the International Covenant on Civil and Political Rights treated them separately. The separate treatment in the International Covenant was necessary to address issues raised by the right of adults to join trade unions. The draft convention need not address such issues, although it should be recognized that older children have the right to join trade unions. States retained their authority to restrict this right in article 7 ter, paragraph 2. He indicated that he would not insist on paragraph 3 if article 5 bis were adopted.

Paragraph 1

48. It was observed that freedom of association and of assembly did not mean any kind of associations or organizations, such as trade unions; this freedom should be commensurate with the age, maturity and level of development of the child, as stated in article 7 in relation to the child's right to express opinions, the wishes of the child being given due weight in accordance with his age and maturity. The representative of China therefore proposed the following amended text for article 7 ter, paragraph 1:

"The States Parties to the present Convention recognize, in accordance with the child's age and maturity, his or her right to freedom of association and freedom of peaceful assembly."

49. Several participants supported the inclusion of freedom of association and freedom of peaceful assembly which was recognized by the International Covenant on Civil and Political Rights.

50. Many participants indicated their preference for retaining article 7 ter, paragraph 1, as it stood, and said that they would agree to take up the Chinese concerns in article 7 ter, paragraph 3. The view was expressed that, in the exercise of the right to freedom of peaceful assembly, the age of the child was not important and the parents could take him with them, while in all countries, for the exercise of the right to freedom of association, there were specific age restrictions by law, for example, in the field of employment or admission to a trade union.

51. The working group adopted article 7 ter, paragraph 1 (see para. 54 below).

Paragraph 2

52. The discussion on paragraph 2 (see para. 35 above) focused on the proposal to delete the word "morals", and to insert the words "or the promotion of the best interests of the child" after the word "order". The view was expressed that that proposal was not acceptable since it would impose new restrictions on freedom of association which were incompatible with article 22, paragraph 2, of the International Covenant on Civil and Political Rights. It was based on the assumption that the child was acting against its best interests, while he was only exercising his rights. In a spirit of compromise proposals were made: (a) to add, at the end of paragraph 2, the words "or where the exercise of these rights would be (manifestly) contrary to the best interests of the child"; (b) to add, at the end of paragraph 2 or paragraph 3, the words "in order to promote the best interests of the child".

53. One speaker stated that in her country, parents and legal guardians had the right to guide children, while other social organs, both governmental and non-governmental were also involved in guiding children. She therefore proposed to insert in paragraph 3, the words "social organs" after the word "guardians". She also stated that children's rights should be better protected, and that, because of their age and level of maturity, they needed guidance from adults. Another speaker was of the view that children could act contrary to their interests, particularly in the case of children without adequate maturity. These comments were supported by the observer for Egypt.

54. Finally, a consensus was reached on paragraph 2 as proposed by the United States of America. The adopted article 7 ter reads as follows:

"1. The States Parties to the present Convention recognize the rights of the child to freedom of association and to freedom of peaceful assembly."

"2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others."

6. Article 7 quater (Privacy, honour, reputation)*

55. The proposed article 7 quater (see para. 35 above) related to the right of the child to privacy, family, home or correspondence, and as orally revised by the representative of the United States of America would contain a second paragraph to read as follows:

"1. The States Parties to the present Convention recognize the right of the child not to be subjected to arbitrary or unlawful interference with his or her right to privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation."

"2. States Parties recognize the child's right to protection of the law against such interference or attacks."

56. The view was expressed that article 17 of the International Covenant on Civil and Political Rights could not be applied to the draft convention. It was proposed to delete the word "arbitrary" which was vague and subjective; to replace "the right to privacy" by "the right to personal freedom"; and to delete the words "right to" before the word "privacy" since in article 17 of the International Covenant on Civil and Political Rights mention was made only of privacy but no right to privacy. The right to privacy might, to some extent, impair the relationship between the parents and the child.

57. Reference was made to the guidelines laid down in paragraph 4 of General Assembly resolution 41/120 entitled "Setting international standards in the field of human rights" and it was argued that the draft convention should be in conformity with the provisions of the Covenants.

58. The working group finally reached a consensus on the retention of the word "arbitrary" and the deletion of the words "right to" before "privacy" and adopted paragraph 2 as proposed by the United States of America. Article 7 quater as adopted read as follows:

"1. The States Parties to the present Convention recognize the right of the child not to be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation."

2. The child has the right to the protection of the law against such interference or attacks."

59. One representative expressed its concern at the piecemeal transfer of provisions from other legal instruments to the convention on the rights of the child as in the case of article 7 quater as adopted since, depending upon the way it was applied, it might have repercussions on the right of parents to guide and educate their children and, consequently, have repercussions on the family, the basis of society. She recalled that the law concerning minor children was nowadays an independent branch of the law and it should provide specific guidance to the working group.

7. Article 12 bis, revision (Health and access to care)*

60. The working group had before it a proposal for a revision of article 12 bis submitted by India (E/CN.4/1988/WG.1/WP.14). In introducing the proposal, the representative of India stated that it was aimed at covering situations which existed, in particular, in developing countries, where almost all of the 14 million cases of premature death as a consequence of disease occurred. In countries where an important part of the population ran the risk of serious disease, due to economic and social problems, children were specially vulnerable and needed special protection. Such protection could be assured through the application of readily available technologies and low-cost measures such as oral rehydration therapy and immunization against the common childhood diseases. The proposed amendments to paragraph 2(e) completed the

already adopted provision by adding a reference to some necessary elements concerning nutrition, including breast-feeding, hygiene and environmental sanitation. The proposal to insert a new subparagraph (c) before the already-adopted subparagraph (c) was aimed at the protection of the life of the child and was related to article 1 bis already adopted during the current session.

61. One representative requested that the translation into Spanish for the words "financial reasons" in paragraph 1 of article 12 bis be "motivos económicos", as in working paper 1 and not "razones financieras" as appeared in working paper 14. The revisions to subparagraphs (d) and (e) of paragraph 2 of article 12 bis were adopted and a new subparagraph (c) was inserted in the text and the subsequent subparagraphs were relettered. Article 12 bis, as revised, reads:

"1. The States Parties to the present Convention recognize the right of the child to the enjoyment of the highest attainable standard of health and to medical and rehabilitation facilities. The States Parties shall strive to ensure that no child is deprived for financial reasons of his right of access to such health care services."

"2. The States Parties to the present Convention shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition within the framework of primary health care, through the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water;

(d) To ensure appropriate health care for expectant mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, and supported in the use, of basic knowledge of child health and nutrition, the advantages of breast-feeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care and family planning education and services."

"3. The States Parties to the present Convention shall seek to take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children."

"4. States Parties to the present Convention undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in this article. In this regard, particular account shall be taken of the needs of developing countries."

62. One representative commented that these rights were already guaranteed more fully in other international instruments, and that there were articles proper to the convention which had not, however, been adopted.

8. Article 14, paragraph 4 (Recovery of maintenance)*

63. Finland submitted a proposal (E/CN.4/1988/WG.1/WP.6) to the working group to insert a new paragraph (4) on the recovery of maintenance from abroad, to the text of article 14 already adopted. In introducing the proposal; the observer for Finland referred to his delegation's previous proposal concerning the same question and to a proposal submitted by an informal group of non-governmental organizations (E/CN.4/1988/WG.1/WP.2, chap. II). He explained that the welfare of the child should not be jeopardized by the fact that his parents lived in different States. In States in which the system of "advance payments" was applied, the State was entitled to recover the maintenance it had paid for the welfare of the child. The second part of the proposal aimed at promoting the accession to international agreements or the conclusion of such agreements among States for the effective recovery of maintenance for the child.

64. The general concept in the proposal was endorsed by the members of the working group. Some speakers suggested that a provision containing a general principle on the matter rather than a detailed description would be more appropriate.

65. One speaker expressed the view that the principle of recovery of maintenance should be a general one, involving not only parents or other persons having financial responsibility for the child who lived abroad, but also those who lived within the territory of the State and who avoided maintaining their children. The author of the proposal insisted that it was more difficult to find a solution to that problem when the persons responsible for the maintenance of the child lived abroad. The Chairman requested the two participants supporting different views on the matter to work together on a new proposal. The new proposal was adopted, and the following text was inserted as paragraph 4 of article 14:

"4. States Parties to the present Convention shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a different State from the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements as well as the making of other appropriate arrangements."

9. Article 18 sixt (Physical and psychological recovery and social re-integration)*

66. A proposal submitted by Norway (E/CN.4/1988/WG.1/WP.29) was introduced by the representative of that country, who explained that the proposal was based on the text of one submitted to the working group at its previous session by the NGO Ad Hoc Group (E/CN.4/1988/WG.1/WP.2, chap. IV). That proposal had been elaborated upon in consultation with other delegations and the NGO Ad Hoc Group, and read as follows:

"The States Parties to the present Convention shall take all appropriate legal, administrative and other measures to ensure the physical, psychological and social rehabilitation of any child victim of: all forms of exploitation and abuse, or any other form of cruel or inhuman treatment. Such rehabilitation shall take place in an environment which fosters the self-respect and dignity of the child."

67. The members of the working group expressed their support for the proposal and the discussion focused on how to reflect the idea more precisely and how to cover all the concerns involved in the proposal. Some speakers stated that the words "any form" should replace "all forms" and that the word "neglect" should be inserted before the word "exploitation". The terms "legal, administrative and other" seemed to be superfluous, since "all measures" sufficed to cover any of the measures that could be taken. It was also necessary to insert the word "health" before "self-respect", and the word "torture" before "or any other form of cruel, inhuman or degrading treatment".

68. The use of the expression "rehabilitation" was discussed at length. Some speakers stated that the word, in their respective languages, was linked to a very precise and restrictive idea and that it would not be understood if it were to be applied to the concepts involved in the proposal. Others were in favour of using that word, because it had been used in international meetings in relation to problems affecting disadvantaged children or adults, as well as in international instruments, such as the Convention against Torture (art. 14). One member proposed using the word "réadaptation" in French, and another suggested the word "readaptación" in Spanish. It was suggested that the Spanish words "recuperación e reintegración" would be more appropriate. An English-speaking member found that those words were also appropriate in English and suggested "physical and psychological recovery and social reintegration". Some speakers insisted that the word "rehabilitation" was the most appropriate one, but they withdrew their proposal in order to join the consensus on "recovery and reintegration". The observer for Canada requested that his position in favour of the word "rehabilitation" should be reflected in the final report. The representative of France requested that the words should be translated into French as "réadaptation physique et psychologique et réinsertion sociale".

69. One speaker wondered whether the second sentence was in fact needed, but the author of the proposal stressed that, if the second sentence were eliminated, it could be understood that any kind of medical treatment or mechanisms for social adjustment would be acceptable in the context of the convention, which was not the idea of the members of the group.

70. The group finally reached a consensus and adopted the following text:

"The States Parties to the present Convention shall take all appropriate measures to ensure the physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman, or degrading treatment or punishment. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child."

10. Article 20, additional sentence to paragraph 2 (Armed conflicts)*

71. With regard to article 20, two proposed amendments to the text already adopted were submitted to the working group by Sweden and the Netherlands. (E/CN.4/1988/WG.1/WP.2, E/CN.4/1988/WG.1/WP.19 and E/CN.4/1988/WG.1/WP.26 respectively).

72. The observer for Sweden introduced his proposal and stated that since the adoption of article 20 in 1986, the General Assembly had drawn up guidelines for the development of international instruments in the field of human rights in resolution 41/120. By that resolution, the Assembly had urged Member States, when developing new international human rights standards, to give due consideration to the established international legal framework, so as to ensure that such standards were consistent with existing provisions of human rights law. Article 20, as adopted in 1986, undermined existing standards of international humanitarian law, in particular, the Geneva Conventions of 1949 and the two Additional Protocols thereto, and resolution IX adopted by the 25th International Conference of the Red Cross (23-31 October 1986) had stressed that the protection accorded by the new convention on the rights of the child should be at least the same as that accorded by the Geneva Convention and the two Additional Protocols. The Swedish proposal did not indicate a revision of article 20 but only some amendments that would bring the text into line with the above-mentioned international humanitarian instruments. The following amendments were proposed: in paragraphs 2 and 3, to replace the words "feasible measures" by "necessary measures"; in paragraph 2, to replace the word "child" in the second line by "persons who have not attained the age of 18 years"; in the same line, to delete the word "direct". Concerning recruitment into the armed forces, it was proposed to insert as the last sentence a text based on article 77, paragraph 2, of Additional Protocol I to the Geneva Conventions which read: "In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, the States parties to the present Convention shall endeavour to give priority to those who are oldest".

73. The observer for the Netherlands withdrew his proposal (E/CN.4/1988/WG.1/WP.26) and stated that he supported the proposal submitted by Sweden.

74. Numerous members and observers spoke on this matter and voiced their support to the spirit of the proposal, indicating that it involved a considerable improvement on article 20 as adopted, because it complied with General Assembly resolution 41/120. It was pointed out, however, that the expression "necessary measures" and the deletion of the word "direct" in the phrase "take direct part in hostilities" would be an improvement on the standard in the Additional Protocols to the Geneva Conventions. Another observer strongly supported the proposal and stated that the proposed amendments to paragraph 2 of article 20 would improve the protection of the child in armed conflicts, which was necessary if there was a will to provide special protection for children. The representative of the International Committee of the Red Cross supported the proposal and stressed the need to include those standards in the convention on the rights of the child thereby strengthening the position of the Red Cross when carrying out its humanitarian activities in armed conflicts. The representative of the High Commissioner for Refugees also supported this proposal as strengthening the protections afforded to refugee children.

75. One participant stated that article 20 as adopted was the result of a compromise and that the necessary revision should be done in connection with the revision of article 1, giving priority to the latter. The group should not limit itself to revision of the concept of recruitment and recruitment age, because the real problem was the militarization of children in official, private or informal armies. Children should be assured a "different" protection, not the same protection as adults. One participant shared the view that it was premature to take decisions on the age of recruitment until a satisfactory definition had been achieved in article 1. Another pointed out an inconsistency in paragraph 2 of article 20 in which two definitions of "child" were contained, one of them contradicting that in article 1.

76. The proposed text met with objections from some participants, who stated that some norms in their national legislation prevented them from supporting it. However, they were ready to take the question to their Governments and to study all the information that the International Committee of the Red Cross or other organizations wished to provide. On that basis, some participants stated that they would prefer to reopen the debate on article 20 at the second reading and not during this session.

77. The observer for Egypt expressed the view that his delegation would like to include in article 20 a differentiation between voluntary recruitment by military schools and obligatory recruitment.

78. The Chairman of the working group drew the attention of participants to the fact that two different items were dealt with in the discussion: the first involved amendments to the existing text, which improved international standards, the second was the insertion in paragraph 2 of a new text, which was taken from article 77 of the Additional Protocol I to the Geneva Conventions. The Chairman's point was taken by some participants, who suggested the insertion of the new text based on Additional Protocol I in paragraph 2 of Article 20, and leaving the amendments to the existing text for the second reading of the convention. That suggestion was agreed to by all the participants and the new text, to be added to paragraph 2, was adopted to read as follows:

"In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, the States Parties to the present Convention shall endeavour to give priority to those who are oldest."

79. The observers for Sweden and the Netherlands stated that they had joined the consensus on the understanding that the other parts of the text would be reviewed at the second reading of the convention (see below para. 223).

B. IMPLEMENTATION PROVISIONS

1. Article 22 (Establishment of the Committee)*

80. The working group had before it a proposal submitted by Canada, Poland, Sweden and the NGO Ad Hoc Group (E/CN.4/1988/WG.1/WP.2, chap. V).

81. In introducing the proposal, the observer for Canada stated that the working group had to decide whether a committee on the rights of the child should be established and to what purpose. If the working group decided that a committee should be established, it also had to decide on the mode of election of its members and the terms for which they would be elected, the frequency and duration of its meetings and other aspects relating to its operation. In particular, the working group had to take decisions concerning the financing of the committee's operation.

82. Article 22 was first considered in general. During the discussion, one participant suggested that the working group might examine the possibility of the States parties submitting their reports to the Secretary-General or of a committee established under another human rights international convention undertaking the supervision of compliance with the obligations of the States parties under the present convention. One representative expressed her belief that neither in the United Nations system nor among the non-governmental international organizations was there at present a legal entity which had an overall view of the rights of the child: it therefore believed that if it proved possible to establish a committee of specialists in this branch of the law, with expert knowledge of the serious problems that affect childhood today and with moral and legal authority to approach any governmental or private international agency to draw attention to the shortcomings in respect of children in the area of their different specialities (health, development, employment, prevention of crime, treatment of children who infringe the law, etc.), such a committee could be of considerable benefit to children and young people, in other words, minors.

83. The members agreed, after considerable discussion, that a committee on the rights of the child was needed and decided to discuss each of the paragraphs to be included in article 22.

Paragraph 1

84. Paragraph 1 of article 22 of the proposal by Canada, Poland and Sweden was taken as a basis for the discussion. All the participants agreed that the second text in square brackets should be adopted, because it reflected the idea of a dynamic process that the members had in mind for the implementation of the convention. They also agreed that the phrase "thereinafter referred to as the committee" should be deleted.

85. One representative suggested that, in view of the current lack of an overall vision of the rights of the child at the present time, the committee should be empowered, on the assumption that it has such a vision, to promote studies on topics it considers to be of special importance at a given time. Another participant suggested including among the faculties of the committee that of preparing studies on the situation of the rights of the child, as established in the convention, in countries which were not States parties. Other participants dismissed the idea indicating that a convention was applicable only in States having ratified it. They further expressed the view that other bodies of the United Nations system normally undertook such studies in the area of their speciality.

86. Another participant hesitated to accept the proposal which, it felt, lacked precision concerning the kinds of information the committee would examine and the sources of that information. Therefore, it proposed the following text:

"For the purpose of studying the reports submitted by the States Parties, there shall be established a Committee on the rights of the child."

87. Several delegations disagreed with that proposal on the basis that it only partially covered the purposes of the committee. It was then suggested that the words "through the study of reports submitted in accordance with article 23" should be added to the proposal of Canada, Poland and Sweden after the word "examining".

88. Some participants considered that proposal restrictive and voiced their preference for the formulation contained in article 28, paragraph 1, of the International Covenant on Civil and Political Rights, while others suggested redrafting the paragraph on the basis of the relevant provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (article 17) and the International Convention on the Elimination of All Forms of Racial Discrimination (article 8).

89. The proposal formulated by one of the participants to add, at the end of the sentence after "Committee on the rights of the child", the phrase "which shall carry out the functions hereinafter provided" was widely supported and finally adopted.

Paragraph 2

90. In discussing paragraph 2, most of the participants stated that, for financial or economic reasons, they supported the view that the committee should consist of no more than 10 members. Some preferred 12 members because it would better meet the need for equitable geographical distribution. One speaker suggested that the number of members should be proportionate to the number of States having ratified the convention, so that it would become higher as more States become parties to the convention. Finally, it was agreed that the committee should consist of 10 members.

91. In relation to the second sentence of the paragraph, some participants proposed deletion of the words "and to the representation of the different forms of civilization as well as the principal legal systems" on the grounds that the concepts involved were not sufficiently defined. However, some speakers said that the concept was sufficiently defined, and that it had already been used in other international instruments. One participant stated that the reference to "legal systems" could be interpreted to mean that only experts in law would be qualified to be members of the committee. Another supported that view, indicating that the experts elected to the committee should have specific competence in the field of the child and not necessarily be specialists in law. Another stated that the first part of the paragraph covered the question of the competence of the experts. In accepting that that was in fact so, both participants agreed to maintain the phrase "as well as the principal legal systems". Paragraph 2 was adopted.

Paragraphs 3, 4 and 5

92. Paragraphs 3, 4 and 5 of the proposal were adopted without discussion.

Paragraph 6

93. In the course of the discussion, participants expressed their general support for the election of the members of the committee for a term of four years and for the renewal of half of the members elected after two years.

94. One participant accepted a suggestion from a non-governmental organization which proposed inserting the sentence "They shall be eligible for re-election if renominated." after the first sentence. The proposal was supported by others and paragraph 6 of the proposal by Canada, Poland and Sweden was adopted with that amendment.

Paragraphs 7 and 8

95. Paragraphs 7 and 8 were adopted without comments.

Paragraph 9

96. During the discussion, one participant suggested including the possibility of re-electing the officers to the committee, but most expressed the view that the question should be decided by the committee itself, when establishing its rules of procedure. Paragraph 9 was therefore adopted without amendments.

Paragraph 10

97. The question of the duration and frequency of the meetings of the committee gave rise to a discussion during which several proposals were made. The Chairman of the working group opened the discussion by proposing the adoption of a text similar to article 20 of the Convention on the Elimination of All Forms of Discrimination against Women. The attention of the group was drawn to Economic and Social Council resolution 1985/17, paragraph (d), which provided sufficient flexibility concerning the location and timing of meetings.

98. Several participants drew attention to the financial implications of the decision to be taken on that question, since financial restrictions would certainly affect the frequency and duration of the meetings, as well as the work-load of the committee. Consequently, it would be premature to take a decision on those questions. The General Assembly would decide when and where the committee would meet.

99. One participant expressed the view that the working group could not dictate the responsibilities of the States parties; the decision should be left to them, if they were to be responsible for the expenses of the committee, and to the General Assembly if the United Nations was to be responsible for such expenses.

100. One participant suggested that the decision should be left to the first meeting of the committee, as established in article 18 of the Convention against Torture. At that time, the committee would be aware of the financial implications. Another considered that it would not be wise to leave the

decision to the first meeting of the committee, at which only 15 States parties would be represented, since the decision would affect other countries which were not at the time States parties to the convention.

101. Several participants stressed the need for a formulation that would assure a minimum frequency in the meetings so that the committee would be able to accomplish its role and functions. If the convention did not contain a clause establishing at least one annual meeting, the scope of the convention would be jeopardized. A certain flexibility allowing for adjustment of the frequency and duration of the meetings to the work-load and to financial restrictions was also needed.

102. Some participants suggested that the review of the frequency and duration of the meetings by the committee or the meeting of the States parties would provide further flexibility. However, as a decision had not been taken on who would finance the operation of the committee, it did not seem appropriate that only a few countries should decide on the budget if the United Nations was to finance the operation. One participant suggested the inclusion, in brackets, of two possibilities [the meeting of the States parties] and [the General Assembly].

103. The Chairman then proposed the adoption, as the first sentence of paragraph 10 of the article, of the text of article 20, paragraph 2, of the Convention on the Elimination of All Forms of Discrimination against Women, concerning the venue of the meetings of the committee, which had not given rise to any comments, and the text was adopted. The Chairman requested a new proposal for a second sentence, based on the previous discussion.

104. Poland proposed the following text (E/CN.4/1988/WG.1/WP.16):

"The Committee shall normally meet annually in order to consider the reports submitted in accordance with [] of the present Convention. The duration of the meetings of the Committee shall be determined and reviewed, if necessary, by the meeting of the States Parties to the present Convention."

105. In introducing the proposal, the observer for Poland suggested that the participants might also discuss a second alternative, which was to add, at the end of the sentence, the words "subject to the approval of the General Assembly".

106. Several participants expressed the concern that the words "to consider the reports submitted in accordance with [] of the present Convention" narrowed the scope of the activities of the committee, since it had to perform different tasks not mentioned in the formulation, while one preferred to maintain that text. The following amendment was proposed: "in order to fulfill (or undertake) its responsibilities".

107. Some participants stated that the current discussion was a repetition of that on the first paragraph of article 22 and proposed deleting the phrase after the word "annually". That proposal was adopted by consensus.

108. Concerning the third sentence of paragraph 10 of the article, the participants agreed that the proposal, including the oral amendment made by Poland, satisfied the concern of most delegations. One delegation stated its concern that the proposal for determining the duration of meetings of the Committee was inflexible, but that consensus on the proposal should not be impeded. An amendment was needed in the last line, which should read "a meeting of the States Parties". The third sentence of paragraph 10 of article 22, as amended, was adopted.

Paragraph 10 bis

109. Paragraph 10 bis was adopted without comment.

Paragraph 11

110. In the course of the discussion on paragraph 11, many participants strongly favoured the first alternative of the proposal submitted by Canada, Poland and Sweden, fearing that many countries would not ratify the convention if they had to meet the expenses of the committee. In addition, the successful implementation of the convention would not be assured, as had been the case for other international instruments, if States parties had to cover such expenses. Developing countries were not in a position to afford the increasing expenses in view of their obligations related to their external debt. Therefore, only the financing of the committee by the United Nations would assure the accomplishment of the purposes of the convention. The delegation of Colombia stated that its country would not be in a position to bear the costs incurred by the committee in carrying out its duties and, consequently, it was in agreement that the United Nations should assume that responsibility. Some participants drew attention to the problems confronting the Committee on the Elimination of Racial Discrimination, precisely because States parties were unable to pay their contribution and the harm that did to the cause of human rights. They also drew attention to the minimal percentage of its budget that the United Nations assigned to human rights.

111. Some participants definitely opposed that view on the ground that the United Nations budget was already overstrained and could not absorb any additional burden. The principle of the responsibility of the States parties for the expenses of the operation of a convention had been established under several international instruments: under the Convention against Torture, such a principle had recently been adopted.

112. Since a consensus could not be reached, one participant proposed that both proposals should be maintained in square brackets and that the question should be discussed at a later stage.

113. The text of article 22, as adopted by the working group, reads as follows:

"1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the rights of the child, which shall carry out the functions hereinafter provided."

"2. The Committee shall consist of 10 experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by the States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution as well as to the principal legal systems."

"3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals."

"4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties to the present Convention."

"5. The elections shall be held at meetings of the States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting."

"6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the Chairman of the meeting."

"7. If a member of the Committee dies or resigns or for any other cause can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee."

"8. The Committee shall establish its own rules of procedure."

"9. The Committee shall elect its officers for a period of two years."

"10. The meetings of the Committee shall normally be held at the United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly."

"10 bis. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention."

"11. [With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.]"

"or

"[States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.]"

"[12. The States Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement to the United Nations of any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 10 of this article.]"

2. Article 23 (Reports from States parties)*

114. The working group had before it a proposal submitted by Canada, Poland and Sweden (E/CN.4/1988/WG.1/WP.2, chap. V). In introducing article 23, the observer for Canada said that much of the language of the proposal had been taken from other international instruments and raised the question whether mention of specialized agencies and non-governmental organizations should be included in that article.

115. At the suggestion of the Chairman, the discussion on article 23 was continued on a paragraph-by-paragraph basis.

Paragraph 1

116. With reference to paragraph 1, all participants expressed the view that the wording contained in the first square brackets "[Committee, through the Secretary-General of the United Nations]" was better than the wording in the second square brackets "[Secretary-General of the United Nations for consideration of the Committee]".

117. Some participants expressed their preference for the wording contained in the third text in square brackets "[on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights]", rather than the fourth text in square brackets of the paragraph "[on the compliance with their obligations under the present convention]". The phrasing contained in the third text was based on article 18 of the Convention on the Elimination of All Forms of Discrimination against Women and also appeared in several other international instruments, such as the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights.

118. Several speakers were of the view that the fourth text within square brackets provided a more dynamic and comprehensive idea of the substance of the reports. It was suggested that the wording should be changed to read "on their compliance with the obligations under the present Convention".

119. Some speakers proposed amendments combining both texts. The formulations proposed were: (a) "measures taken in their compliance with the obligations" and (b) "on their compliance with the obligations under the present Convention, including information about the measures they have adopted which give effect to the rights recognized therein, and on progress made in the enjoyment of these rights".

120. Some participants suggested that Governments should also be requested to report about their future programmes in relation to their obligations under the convention. Others opposed that suggestion on the grounds that it was not appropriate to include too many details and in particular that the committee should not be burdened with reports on intentions.

121. Some French-speaking participants hesitated to support the formula in the fourth square brackets because when translated into French it was vague and did not give an accurate idea of the content of the report as envisaged by the authors of the proposal. They requested the adoption of the phrase in the third square brackets, which was clearer in French.

122. The phrases contained in the fifth square brackets "[including information about the competent national body or bodies responsible for the implementation of those rights]" and the sixth square brackets "[and assistance they may require from the international community]" were generally considered superfluous because those questions were addressed in other articles of the convention. Furthermore, the committee would later establish its own rules, where it seemed more appropriate to include such details. However, one participant stated that the reference to national bodies was a useful one, because it might encourage the action of those institutions, which participated in the implementation of the convention at the national level.

123. With regard to paragraph 1 (a) of the proposal, it was pointed out that the text should refer to "the State Party" and not to "the States Parties" concerned, because the entry into force of the convention would take place for each State individually.

124. With regard to subparagraph (b), some speakers emphasized the importance of the reporting obligation as the sole means of ensuring compliance with the convention, but also pointed to the difficulties encountered by States when they had to prepare reports too frequently leaving them no time to implement their plans and make progress. Most participants preferred the establishment of a specific reporting period in the convention and considered that the five year cycle was the most appropriate.

125. Some speakers supported the second alternative of the proposal, because a reporting system in stages would enable the committee to focus on certain aspects and it would also lighten the burden of the States parties. They agreed, however, that reports should be submitted every five years and proposed amending the second alternative accordingly.

126. In connection with the second paragraph of the second alternative, one speaker said that it should be in paragraph 4, among the faculties of the committee and not among the obligations of the States parties. Some participants wished to maintain the paragraph, agreeing that it might be placed among the attributions of the committee.

127. It was finally agreed that the first alternative should be adopted, without the phrase in square brackets and that the last sentence of the first paragraph as well as the second paragraph in the second alternative would be discussed at a later stage. The text was adopted as paragraph 1 of article 23.

Paragraph 2

128. The discussion on the first sentence of paragraph 2 of the proposal by Canada, Poland and Sweden focused on which of the two formulations in square brackets was more appropriate. One speaker preferred the first option [may], while many agreed that the second option [shall] with the addition of the words [if any], based on article 40 of the International Covenant on Civil and Political Rights, was the most appropriate.

129. India, Poland and Norway put forward a proposal to include a second sentence in paragraph 2 to read:

"Reports shall also contain sufficient information on social, economic and institutional aspects, as well as on assistance required from the international community, to provide the Committee with a comprehensive understanding of the operation of the Convention in that country."

130. One of the authors of the proposal explained that the phrase "as well as on assistance required from the international community" had been included in accordance with a proposal submitted by UNICEF and the non-governmental organizations (E/CN.4/1988/WG.1/WP.2, chap. V).

131. One speaker proposed adding the phrase "and on national institutions responsible for the implementation of those rights." after the words "institutional aspects".

132. Some participants hesitated to support the proposal because it contained too many details and words not clearly defined, such as "aspects" and "assistance", which were rather vague in that context. Furthermore, that wording gave the impression that the working group was trying to take the place of the committee, which was the appropriate organ to establish guidelines for the reports of States parties. The first sentence of the paragraph was already sufficiently clear and complete.

133. The authors of the proposal insisted that at least the last phrase "to provide the committee with a comprehensive understanding of the operation of the Convention in that country" should be included in order to indicate precisely the content desired while maintaining a broad scope for the reports.

134. One speaker suggested replacing the word "operations" by the word "implementation", which seemed to be more comprehensive.

135. It was agreed that the addition would complete the concept of the content of the report, and the second sentence was adopted, as amended.

136. With regard to the question of the rights of disadvantaged children, raised in the second sentence of the draft proposal of Canada, Poland and Sweden, some speakers stated that children should all be given equal attention and such a sentence was therefore superfluous. Others supported the reference to disadvantaged children on the ground that it was sometimes necessary to apply unequal measures to obtain equal rights. One participant said that, in particular situations, some children might constitute a category of "children with special needs", e.g. in circumstances of natural disaster or social problems, which should be covered by the convention. There were also certain groups of children who were in a marginal, specially disadvantaged situation, who needed increased attention.

137. The following proposal (E/CN.4/1988/WG.1/WP.9) was submitted by the Italian delegation:

"The reports shall make express reference to the measures undertaken by the States Parties in order to ensure the exercise of the rights enounced by the present Convention to children who are in a situation of special need."

138. One speaker considered that the concept of "children in special need" was not sufficiently defined and asked whether children who were the victims of violence, apartheid or colonial domination were included in that category or whether it only included handicapped children or refugees. Another participant stated that a very great number of children in developing countries could be included in that category; however, all children had the same rights.

139. Some speakers said that, although they shared the concern of the author of the proposal, the question was already covered by other articles of the convention and the current discussion should concentrate on the reporting system dealt with in article 23, and not on substantive matters. Furthermore, they were not convinced that positive discrimination would bring about the desired results.

140. Since there was no consensus, the representative of Italy withdrew her proposal and stated that it would be submitted for inclusion in the preambular part of the convention.

141. One representative expressed the view that the relationship between the committee and the State party should be understood, not as the present relationship in certain committees which seemed to be that of a court and a defendant, but as a dialogue in which the State could explain its major concerns and the committee could pass on with its more overall, in the sense of universal, knowledge of the different situations that confront children; in this regard, the same.

142. Another speaker suggested that the reports of States parties should also contain information on situations not covered by the convention, thus providing an opportunity to report on new problems or developments which had become a matter of concern for the States parties. In that regard, a proposal which was intended for para. 2 of article 23 (E/CN.4/1988/WG.1/WP.7) was submitted to the working group by Venezuela. It read as follows:

"Reports from the States Parties may indicate the Government's concern in areas where children require protection in situations not covered by this Convention."

143. The proposal was supported by several speakers on the ground that a number of rights might not be covered by the convention, in particular in situations emerging from new developments in science and technology, as well as in fields that might have been overlooked by the members of the working group.

144. Other speakers felt that part of article 23, as already adopted, covered the point made in the proposal, because the States parties had the possibility of reporting on those questions if they wished. Furthermore, if the working group adopted paragraph 11 of the proposal submitted by Canada, Poland and Sweden, the committee would be able to undertake studies that might deal with the new concerns. The committee had a specific task, which was to supervise the fulfillment by the States parties of their obligations under the convention. New concerns of the States parties could also be covered by article 4 of the convention, which was very broad and in which all violations of the rights of the child could be included.

145. Some speakers expressed their concern that the convention failed to address certain points which might become a problem in future years. However, it did not seem appropriate to cover that point within the context of the reporting system and it was suggested that the matter should be discussed subsequently.

146. Observing that a consensus on that point was not possible, the Chairman suggested that the proposal should be studied further.

147. Several participants were of the view that if a committee on the rights of the child were established, its costs should be defrayed by the United Nations, its terms of reference should be original, and it should be representative of all the regions and ambitious in its objectives. In other words, it should provide the best possible guarantee of all the rights of the child. In any event, it should not confine itself to what other committees did, particularly at a time when the work of other committees was under discussion in New York. The working group should make an effort to assign functions to the committee that were consonant with the expectations aroused by the possible adoption of a convention on the rights of the child. In view of the importance of this implementation machinery and in order to be able to study it better in the light of the discussions that had taken place, the representative of Venezuela stated that she had decided to enter a general reservation on this implementation machinery in its entirety in order to have time for reflection.

Paragraph 3

148. The discussion on paragraph 3 of the proposal submitted by Canada, Poland and Sweden focused on whether such a provision was needed. Some speakers considered it necessary as a way of reducing the burden of States parties. One participant stated that the clause did not add anything new because it was the practice of Governments to refer to previous reports when they wished to do so.

149. Another speaker expressed the view that the question should be considered by the committee when it elaborated its rules of procedure.

150. In general, the group agreed that it was not necessary to include that text in the convention. However, the committee should consider including such a clause in its guidelines for the reports of the States parties.

151. In discussing paragraph 4 of the proposal by Canada, Poland and Sweden, several speakers expressed their support for the idea contained in the proposal but suggested different wording and drew attention to the difficult task involved in reporting on changes affecting the obligations of States parties under a convention which covered so many different aspects. The Chairman then asked the group to draft a new proposal to facilitate the discussion.

152. The observer for Australia submitted the following proposal (E/CN.4/1988/WG.1/WP.21):

"A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b), repeat basic information previously provided and may concentrate on those changes (including legal, administrative and in practice) that relate to the implementation of the Convention in that State, as well as responding to any questions the Committee may have raised when considering previous reports from that State Party."

153. The author of the proposal explained that it was aimed at reducing the work of the committee and States parties by avoiding unnecessary repetition in reports. If the committee could focus on the most significant aspects of the convention's implementation in a country, it would be a much more effective mechanism.

154. Some participants stated that the five-year reporting cycle was long enough to justify a new comprehensive report and that the text under discussion would limit the possibilities for the States parties to make their activities known in the context of the implementation of the convention.

155. The Chairman of the working group proposed that the group adopt the first part of the text, which had not given rise to discussion, with a full stop after the word "provided". His proposal was adopted by consensus. The text was adopted as paragraph 3 of article 23.

Paragraph 4

156. During the discussion on paragraphs 1 and 2 of the convention, several speakers had expressed the view that the committee should be able to request the States parties to provide information on aspects of the implementation of the convention on which they had provided insufficient information or none at all in their reports to the committee.

157. The observer for Egypt said that a provision on that point should be included among the faculties of the committee and not among the obligations of the States parties. A discussion took place based on the last sentence of article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, which reads: "The Committee may request further information from the States Parties."

158. One participant proposed adding the following sentence: "The Committee may require further information from the reporting countries" to the preceding paragraph. Another proposed including after the words "further information", the phrase "relevant to the implementation of this Convention".

159. The following text was then adopted:

"The Committee may request from the States Parties further information relevant to the implementation of this Convention."

160. At a later stage, it was decided to include that text as paragraph 4.

Paragraph 5

161. The discussion on paragraph 5 was based on paragraph 9 of the proposal by Canada, Poland and Sweden. All participants agreed that the committee should submit its reports to the General Assembly biennially. One indicated that those reports should be submitted through the Economic and Social Council.

162. The Chairman proposed the following text, as paragraph 5 of article 23:

"The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, every two years, reports on its activities."

163. The paragraph was adopted by consensus.

Paragraph 6

164. The discussion on paragraph 6 was based on paragraph 10 of the proposal by Canada, Poland and Sweden. The importance of the availability to the public of the reports of States parties was stressed by the authors, who indicated that it was a way to increase public awareness and also part of the educational process related to the rights enshrined in the convention. A discussion took place on the precise wording of the text and the Chairman proposed the following:

"The States Parties shall make their reports widely available to the public in their own countries."

165. That text was adopted as paragraph 6 of article 23.

166. The text of article 23 as adopted reads as follows:

"1. State Parties to the present Convention undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

(a) within two years of the entry into force of the Convention for the State Party concerned,

(b) thereafter every five years."

"2. Reports made under this Article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in that country."

"3. A State Party which has submitted a comprehensive initial report to the Committee need not in its subsequent reports submitted in accordance with Paragraph 1(b) repeat basic information previously provided."

"4. The Committee may request from the State Parties further information relevant to the implementation of the Convention."

"5. The Committee shall submit to the General Assembly of the United Nations through the Economic and Social Council, every two years, reports on its activities."

"6. The States Parties shall make their reports widely available to the public in their own countries."

3. Article 24 (Methods of work of the Committee)*

167. The working group had before it in this regard a proposal submitted by Canada, Poland and Sweden and a proposal submitted by the informal non-governmental organization drafting group (E/CN.4/1988/WG.1/WP.2, chap. V). Following a general discussion, *inter alia*, on the part specialized agencies, UNICEF and other organs could play in the implementation of the convention, the Chairman drew attention to a consolidated proposal (E/CN.4/1988/WG.1/WP.12) and suggested that the discussion should focus on that proposal.

168. In this regard, one speaker stated that there was no text of the proposal in Spanish and it was impossible to proceed any further. Attention was drawn to the translation of the original proposal by non-governmental organizations in E/CN.4/1988/WG.1/WP.2, some clauses of which were similar to those of the revised proposal. The text of the proposal was then read at dictation speed so that members might take note of the translations provided by the interpreters.

169. Several participants, among them UNICEF, UNHCR and non-governmental organizations, gave their general support to that proposal, which they considered incorporated a dynamic approach and innovative mechanisms and agreed with the mention of UNICEF as the designated lead agency on children. The important role which the specialized agencies and organs of the United Nations could play in the implementation of the convention and the assistance which the non-governmental organizations could provide was generally recognized. Several speakers mentioned the technical assistance that such organizations could provide and the importance of their participation and assistance for the compliance of the Convention.

170. However, many governmental representatives stated that the main responsibility for implementation of the convention lay with the States parties. A convention represented an agreement first among States, which took on certain obligations and only the States parties were entitled to control compliance with the convention. Some speakers expressed their doubts as to whether specialized agencies should have the right to be present during the examination of reports. The specialized agencies and organs of the United Nations, as well as the non-governmental organizations should be able to participate in the implementation of the convention and they could therefore agree to authorize the committee to invite them to be present should the committee consider it appropriate.

171. Several governmental representatives expressed doubt as to the inclusion of the acronym "UNICEF" in the text of the convention, but said that if there would be a consensus to its inclusion they would not object. Two representatives stated that they hesitated to accept the inclusion of the mention of UNICEF in the text, because its name and mandate could be changed by the General Assembly. Other speakers stated that UNICEF was an organ specialized in assistance to children; however, other specialized agencies had also played an important role in areas connected with the rights of the child; UNICEF was not particularly specialized in legal matters, a field in which some inter- national, regional, national, intergovernmental and non-governmental organizations had traditionally worked. One participant expressed reluctance at drawing UNICEF into the role of dealing with complaints against States parties or becoming an organ charged with judging matters relating to the convention. It was suggested that the mention of UNICEF should be replaced by the words "concerned agencies and organs of the United Nations".

172. Finally, the text of the proposal (E/CN.4/1988/WG.1/WP.12) was found to be too long and complicated. The Chairman therefore proposed the formation of a drafting group to prepare a new proposal based on the discussion.

173. The drafting group composed of Brazil, the German Democratic Republic, India, the Netherlands, Norway, the United Kingdom and UNICEF submitted a consolidated proposal (E/CN.4/1988/WP.1/WP.15) which read as follows:

"In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The Committee may invite UNICEF, other organs of the United Nations, the specialized agencies and such other organizations or bodies as it may consider appropriate, to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates and to submit reports on their own activities in areas covered by the Convention.

(b) The Committee shall transmit to such of the bodies mentioned in paragraph (a) as it may consider appropriate, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance."

174. In introducing the new proposal on behalf of the drafting group, the representative of Norway stated that two main principles had been taken into account: (a) the need to stress international co-operation in the implementation of the convention and (b) the importance of the specialized agencies and organs of the United Nations, as well as the non-governmental organizations, which were able to assist, within the fields of their specific competence, in the implementation of the convention. The new text was more precise and the drafting group had kept close to the wording in other international instruments. The preambular part of the consolidated proposal was adopted.

175. Some non-governmental representatives observed that the proposal did not provide for the specialized agencies and organs of the United Nations to be present during consideration of the reports of States parties. One of the authors of the proposal explained that such a provision had deliberately been left aside because it could give the impression that those agencies and organs would have a judicial role.

176. Other participants proposed deleting the words "and such other organizations and bodies as it may consider appropriate" on the ground that it did not seem appropriate to include in the convention mention of organizations which could not be properly identified.

177. Other speakers opposed that proposal on the ground that it was important to recognize in the convention the essential role of the non-governmental organizations in its implementation. Only organizations or bodies with the necessary competence to make a contribution would be invited. In that connection, the importance of technical assistance was again stressed by some participants.

178. One speaker objected to the idea that the organizations or bodies mentioned in the first part of the sentence could submit reports to the committee on their activities. One of the authors of the proposal explained that the reason why they should submit such reports was that the committee would then have a way of monitoring the convention in a comprehensive way and he stated that his own delegation and others were aware that the convention would never be successfully implemented without the co-operation of the non-governmental organizations. One speaker proposed adding the words "competent" or "relevant" before "organizations or bodies".

179. The Chairman drew the attention of the group to the fact that three different issues were under discussion: (a) the organizations that would be present during consideration of reports, (b) the organizations that would provide advice, and (c) the organizations that would submit reports.

Article 24(a)

180. Reference was made by several speakers to article 22 of the Convention on the Elimination of All Forms of Discrimination against Women and the possibility of adopting that text with certain amendments was discussed.

181. In an effort to clarify the ideas previously discussed, the representative of the Union of Soviet Socialist Republics drafted the following text to complement article 22 of the above-mentioned convention:

"The Committee may invite the specialized agencies, as well as UNICEF and other competent bodies, as it may consider appropriate, to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates."

182. Some speakers observed that the text did not contain a reference to non-governmental organizations and proposed adding "governmental and non-governmental organizations". That idea did not satisfy some participants who considered that its formulation was more restrictive than the text of the proposal, because the words "competent bodies" were very comprehensive, and included non-governmental organizations. The author of the proposal stated

that to enumerate all the types of governmental, non-governmental and intergovernmental organizations and bodies that might eventually be involved would be too long. The proposal provided a general and flexible formula.

183. The representative of the Union of Soviet Socialist Republics stated that the wording "UNICEF, other organs of the UN, the specialized agencies and such other organizations or bodies" was not only too broad and uncertain but also inconsistent with articles 7, 8 and 71 of the United Nations Charter and other United Nations documents, in particular, Economic and Social Council resolution 1296 (XLIV) on the status of the non-governmental organizations. With this in mind, he voiced an opinion that these flaws of the proposal under discussion could be eliminated if the committee would be entitled to seek the advice of "specialized agencies, UNICEF and other competent bodies".

184. Two speakers expressed reservations about the inclusion of a specific reference to UNICEF. They stated that this did not mean in any sense that their Governments did not give due confidence to the United Nations Children's Fund whose work in the area of its mandate was fully recognized. One delegation which stated that it was in agreement with the general proposal, proposed that square brackets be placed only around the word "UNICEF" until instructions had been received from its Government. Another stated that it had not expected that the mention of UNICEF would provoke any kind of problem, as UNICEF had been recognized by the United Nations as a point of convergence for all matters in the field of the child and had played an important role in developing countries, where it had saved the lives of many children. Subsequently, the speaker concerned indicated his willingness to withdraw his proposal regarding the brackets provided that UNICEF make it clear that the clause would not be interpreted in any way as affecting the mandate of UNICEF or the authority of its Executive Board and the General Assembly to set general UNICEF policy and to determine its budget; the representative of UNICEF provided the requested assurances and the delegation which had proposed the square brackets around the acronym "UNICEF" withdrew its proposal.

185. Another representative requested that the record state clearly that the words "other competent bodies" were to be interpreted in their widest sense to include intergovernmental and non-governmental bodies. It was agreed that the record would reflect the inclusion within the terms "other competent bodies" of intergovernmental and non-governmental bodies.

186. One representative asked that the words "as well as" be withdrawn. Another expressed support for the words but said that if their withdrawal would lead to adoption by consensus he would agree. It was so decided.

187. The working group thus adopted the following text: the text of the first sentence of article 22 of the Convention on the Elimination of All Forms of Discrimination against Women, with the addition of "and UNICEF" in the first line after "The specialized agencies" and the replacement of the last word of the sentence, "activities", by "mandate", was adopted as the first sentence of article 24, paragraph (a). The proposal by the representative of the USSR, with the elimination of the words "as well as", was also adopted as the second sentence of that paragraph. As the third sentence of that paragraph, the working group adopted the second sentence of article 22 of the Convention on the Elimination of All Forms of Discrimination against Women, with the addition of the words "and UNICEF" after "specialized agencies". (See para. 205 below).

188. The representative of Venezuela stated that she reserved her delegation's position until the Spanish text was available, first, for reasons of principle and, second, because she did not understand the decision taken.

Article 24(b)

189. The discussion on paragraph (b) of the consolidated proposal (E/CN.4/1988/WG.1/WP.15) continued on the basis of the following consolidated text introduced by Canada:

"The Committee shall transmit, as it may consider appropriate, to the specialized agencies, UNICEF and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance along with the Committee's observations and suggestions on these requests or indications."

190. This proposal satisfied all the participants, although one stated that it probably dealt with questions that had to do with the procedures of the committee and suggested deleting the phrase after the word "assistance". Another proposed adding "if any" after "observations and suggestions". All agreed to that amendment. The observer for Zimbabwe proposed that the words "as it may consider appropriate" be deleted from the text on the grounds that all reports requesting assistance should automatically be transmitted. She did not insist on her proposal but requested that the report reflect her point that the committee should decide on the appropriate agency, but should transmit all reports in which technical assistance was requested.

191. The representative of Venezuela stated that in a text which had obvious legal implications, she would not be able to join the consensus if she did not have a Spanish text.

192. The text, as amended, was adopted as paragraph (b) of article 24. (See para. 205 below.)

Article 24 (c) and (d)

193. In discussing article 23, it had been suggested that the question of how to deal with new problems or developments which had become a matter of concern and were not covered by the convention should be dealt with elsewhere. In that connection, the observer for Canada submitted the following proposal (E/CN.4/1988/WG.1/WP.11):

"The Committee may request approval from the General Assembly for the Secretary-General to undertake on its behalf a study or studies on specific issues relating to one or more articles of the Convention and their implementation, or on issues relating to, but not specifically provided for, in the Convention. On the basis of such studies, the Committee may formulate recommendations to the international community on how the implementation of the present Convention may be improved."

194. In introducing his proposal, the observer for Canada stated that the concept of studies should not interfere with the reporting cycle of the States parties. According to the proposal, the committee would not have the authority or the resources to initiate studies. It would have to submit proposals to the General Assembly, which will take the decisions on those

studies. That provision would enable the committee to make recommendations on new developments that could affect the rights of the child in the future, taking into account that realities changed. It would also enhance the participation of States parties, specialized agencies and non-governmental organizations, which would transmit their concerns to the committee. The proposal relied on a precise precedent in the International Covenant on Economic, Social and Cultural Rights.

195. The idea that the committee would undertake studies was generally supported by the group, although several issues were brought up in connection with the proposal. One participant stated that if the committee was formed by qualified experts, it would not need to request outside experts or organizations to undertake studies, so that no expenses would be incurred. That was the case for the Human Rights Committee of the International Covenant on Civil and Political Rights, which prepared studies on its articles, which were transmitted to the General Assembly.

196. Another speaker voiced the view that the studies should be requested by the Secretary-General to specialized institutions with a recognized level of knowledge in the matter and not the Secretariat of the United Nations. According to some speakers, both views were compatible, since the studies could be requested of specialized agencies or organs of the United Nations, as well as of competent non-governmental organizations. However, it was necessary to stress the role of the United Nations in the implementation of the convention and therefore the decision on the areas where a study should be carried out should be taken by the General Assembly, upon a recommendation from the committee.

197. The following consolidated proposal for paragraphs (c) and (d) of article 24 was then submitted by Canada, Portugal, Senegal and Venezuela (see E/CN.4/1988/WG.1/WP.23):

"(c) The Committee may recommend to the General Assembly that the Secretary-General undertake on its behalf studies on specific issues relating to one or more articles of the Convention and their implementation, or on issues relating to, but not specifically provided for, in the Convention."

"(d) The Committee may make suggestions and general recommendations based on the examination of the reports and other information as well as on the studies undertaken at its request."

198. In discussing paragraph (c), some speakers found that the wording "issues relating to the Convention" was not precise enough, because it could be understood as implying any legal study on the convention or a variety of studies that were not those that the group had in mind. One speaker proposed changing the wording to "issues relating to the rights of the child". The group considered that the new formulation reflected the idea of the kind of studies to be undertaken and it was also more comprehensive, since issues not specifically provided for in the convention were encompassed.

199. The representative of Venezuela stated that she preferred the first formulation in which the idea of issues not specifically provided for in the convention was explicit. However, she joined the consensus on paragraph (c), requesting that her delegation's point be reflected in the report. Paragraph (c), as amended, was adopted.

200. Paragraph (d) of the proposal was considered too vague, because it did not specify to whom the recommendations would be addressed or on what "other information" the recommendations would be based.

201. All participants agreed that the recommendations should be reported to the General Assembly. They also agreed to take the words of the last sentence of article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination: "Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties."

202. The group further agreed to insert in the text the fact that the recommendations "shall be transmitted to any State Party concerned."

203. In discussing the question of the information on which the recommendations should be based, the Chairman drew the attention of the group to the contents of articles already adopted, which established the following categories of information: (a) reports by States parties; (b) experts' advice; (c) reports by specialized agencies and UNICEF; (d) studies undertaken by the Secretary-General at the request of the committee.

204. Some speakers expressed the view that a flexible and comprehensive implementation of the convention required that all those categories be included, but the committee should also have the faculty of commenting on information not included in the categories of the convention. One speaker objected to that view on the grounds that a vague formulation might induce comment on unreliable information and stated that it was necessary to establish the type of information on which the recommendations would be based. The following text was then suggested: "information received pursuant to articles 23 and 24". One participant stated that that formulation did not cover all his delegation's concerns. However, as it covered the most important, he joined the consensus and paragraph (d) of article 24, as amended, was adopted.

205. The text of article 24, as adopted by the working group reads as follows:

"In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:"

(a) The specialized agencies and UNICEF shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, UNICEF and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies and UNICEF to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, UNICEF and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance along with the Committee's observations and suggestions, if any, on these requests or indications.

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child.

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 23 and 24 of this Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties."

206. Later during the session, in the course of the 20th meeting, the representative of Venezuela stated that "at this hour (5:00 p.m.) and this stage in the work of this working group, when you reopen consideration of article 24, which had not achieved a consensus, my delegation, through you, Mr. Chairman, wishes to inform the other members of the working group that we are not able to join in any possible consensus on the current drafting of paragraphs (a) and (b) of article 24. Because of the importance of this article and the precedent which the current text establishes, we request that it should remain between square brackets in the document which the working group submits to the Commission on Human Rights."

207. Several speakers stated that it was their understanding that those paragraphs, as well as articles 22, 23 and 24, had already been adopted and, as was usual, not without many sacrifices in order to adhere to the consensus among participants who had made reservations when they deemed it appropriate. It was felt that it would be very regrettable if a consensus reached after a long discussion was later questioned since all participants had had the opportunity to express their respective opinions. All the articles of the draft convention reflected compromises; delegations had given priority to the rights of the child and had made sacrifices in order to accomplish their task; if the discussion on the articles already adopted were to be reopened, the opportunity to complete the first draft would be lost and it could take a long time for the convention to come into force. The representative of Venezuela insisted on her request and referred to the square brackets which appeared in paragraphs 11 and 12 of article 22.

208. Several speakers stated that they could not support the proposal to put square brackets around paragraphs (a) and (b) as they had been thoroughly discussed and adopted. The Chairman stated that it did not appear that the working group was in agreement with the proposal, but that Venezuela's request would be included in the report and could be brought up during the second reading. The representative of Venezuela did not withdraw her request.

C. Final clauses

209. In considering the final clauses, the working group had before it draft articles 24 to 29 and the comments and general observations thereon submitted by the Office of Legal Affairs (E/CN.4/1988/WG.1/WP.2, chap. VI).

1. Article 25 (Signature/ratification)*

210. The Chairman proposed that the text of article 25 of the Convention on the Elimination of All Forms of Discrimination against Women be adopted without any changes as article 25 of the convention. It was so agreed and article 25 reads as follows:

"1. The present Convention shall be open for signature by all States."

"2. The Secretary-General of the United Nations is designated as the depositary of the present Convention."

"3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations."

"4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations."

2. Article 26 (Amendments)*

211. The observer for Finland proposed the insertion of a revision clause similar to the one contained in article 29 of the International Covenant on Economic, Social and Cultural Rights. He was of the view that, since the triangular relationship between the State, parents and the child was constantly changing, a mechanism whereby States parties could revise the draft convention was necessary.

199. The working group, for this purpose, considered the approaches adopted in different human rights instruments, for example, the Convention on the Elimination of All Forms of Discrimination against Women (art. 26) and articles 29 of the Convention against Torture and the International Covenant on Economic, Social and Cultural Rights.

212. Several speakers indicated their preference for the text in article 29 of the International Covenant on Economic, Social and Cultural Rights. Suggestions for amendments were made and agreed upon and the working group adopted article 26 to read as follows:

"1. Any State Party to the present Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the present Convention with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that within four months from the date of such communication at least one third

of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval."

"2. An amendment adopted in accordance with paragraph 1 of this article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to this Convention."

"3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of this Convention and any earlier amendments which they have accepted."

3. Article 27 (Entry into force)*

213. The discussion referred mainly to the number of ratifications or accessions required for the entry into force of the draft convention. Some felt that the draft convention should set a high threshold, as had been done in the International Convention on the Elimination of All Forms of Racial Discrimination which required a minimum of 27 ratifications or accessions, so as to give to the draft convention a large basis as well as an equitable source of financing. Others, being of the view that a high threshold was neither necessary nor desirable, proposed that 15 ratifications or accessions should suffice for the draft convention to enter into force. The working group then reached a consensus on 20 ratifications or accessions, as required by the Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture. Article 27 was adopted to read as follows:

"1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession."

"2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession."

4. Article 28 (Reservations)*

214. Sweden submitted a proposal for the inclusion of a provision under which States parties could make reservations (E/CN/1988/WG.1/WP.2).

215. In so doing, the observer for Sweden expressed the view that it was of the utmost importance that the draft convention should not be undermined by States parties making reservations but should lead to the improvement of national laws to comply with international standards. However, in order to reach a consensus, Sweden withdrew its proposal and suggested that the working group consider the text of article 28 of the Convention on the Elimination of

All Forms of Discrimination against Women. Another delegation expressed the view that the rights of the child were conceived differently depending on the legal system, values and beliefs of the country concerned. The implementation of child's rights should not shatter the family nor the values of the family. Therefore, reservations should be allowed so that certain countries could overcome constitutional and legislative obstacles. It was, however, pointed out that, as the concept of the family differed so widely, the draft convention would be weakened if it was to be opened to such reservations.

216. Most of the participants supported the idea behind the Swedish proposal and stressed the need for having such a clause which would enable States parties to make reservations that were not incompatible with the object and purpose of the draft convention. They indicated their preference for the text of article 28 of the Convention on the Elimination of All Forms of Discrimination against Women.

217. The working group decided to adopt the text of article 28 of the Convention on the Elimination of All Forms of Discrimination against Women without any changes as article 28 of the convention to read as follows:

"1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession."

"2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted."

"3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received."

5. Article 29 (Denunciation)*

218. The Chairman-Rapporteur proposed that an article on denunciation be inserted in the draft convention and suggested that article 31 of the Convention against Torture could be used as a basis for discussion. It was proposed that only paragraph 1 of article 31 of the Convention against Torture would be sufficient, and the working group adopted draft article 29 to read as follows:

"A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General."

6. Article 30 (Notifications to the Secretary-General)*

219. The Chairman proposed the adoption of the text of article 32 of the Convention against Torture omitting, however, any reference to various articles. This was accepted by the working group and the text of article 30 as adopted reads as follows:

"The Secretary-General of the United Nations shall inform all States Members of the United Nations and all States which have signed this Convention or acceded to it of the following:

- (a) Signatures, ratifications and accessions;
- (b) The date of entry into force of this Convention and the date of the entry into force of any amendments;
- (c) Denunciations."

7. Article 31 (Authentic texts)*

220. The Chairman proposed that the working group adopt the text of article 33 of the Convention against Torture as draft article 31 of the draft convention. This was agreed to and the article as adopted reads as follows:

"1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations."

"2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States."

II. PROPOSALS DISCUSSED, BUT NOT ADOPTED, BY THE WORKING GROUP

A. Proposals deferred to the second reading

1. Article 1 bis (Prevention of discrimination, particularly on the grounds of sex)*

221. The proposal submitted by the Netherlands (E/CN.4/1988/WG.1/WP.2, chap. II) concerned the obligation of the States parties not to discriminate, in particular on grounds of sex, in establishing the age of majority. Some participants requested clarification of the reasons why the proposal had been submitted, since articles 1 and 4 of the draft convention established the age of majority and the principle of non-discrimination. The observer for the Netherlands explained that he would accept that article 4 covered that point if the age of adulthood were established in the convention but, given the terms in which article 1 had been drafted, he thought that article 4 did not suffice. However, he understood that some of the questions put to him needed clarification. The discussion of the proposal was deferred to the second reading.

2. Article 19 (2)(c)(ii) (Assistance to children in detention)*

222. The representative of Venezuela supported a proposal submitted by the World Federation of Methodist Women (E/CN.4/1988/WG.1/WP.27) on assistance to children in detention following trial. It was suggested that the proposal be amended to read: "This assistance shall also be available to children throughout any period of detention". The proposal was supported by some, while others wondered whether such a provision was really needed. Most of the

participants preferred not to discuss an article adopted long ago and suggested that the proposal be taken up at the second reading of the draft convention, by which time an appropriate formulation could be found.

3. Article 20, revision (Armed conflicts)

223. The parts of the proposal submitted by the representative of Sweden (E/CN.4/1988/WG.1/WP.19) which were not adopted during the current session (see above paras. 71 and 79) were also deferred to second reading as follows:

"1. States Parties to the present Convention undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child."

"2. States Parties to the present Convention shall take all necessary measures to ensure that persons who have not attained the age of eighteen years do not take part in hostilities and they shall refrain from recruiting into their armed forces persons below the age of fifteen years."

"3. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties to the present Convention shall take all necessary measures to ensure protection and care of children who are affected by an armed conflict."

B. Proposals withdrawn

1. Article 1 (Child-Age)*

224. The working group had before it a proposal submitted by Finland (E/CN.4/1988/WG.1/WP.10) which read as follows:

"Article 1

"1. For the purposes of the present Convention, a child means every human being who has not attained the age of 18 years."

"2. No provision of the present Convention shall be applied to a child who has attained the age of [15] years and who no longer is a minor, where the application would be manifestly incompatible with the legal status of that child."

"[3. In terms of paragraph 2 of this article, a child who no longer is a minor means a child who:

(a) has full legal capacity; or

(b) has become emancipated in all matters relating to his or her person; or

(c) has the right to determine his or her own residence; or

(d) has the capacity to enter into certain contractual relationships; or

(e) has the capacity to dispose of certain parts of his or her property.]"

225. The observer for Finland stated that article 1 needed fundamental revision in various respects. The use of the age of majority as one of the central devices to delimit the scope of application of the convention could weaken the whole convention considerably. It was to be hoped that the proposal which Finland was withdrawing would give some indication for future revision of article 1, in particular with respect to the emphasis to be given to the crucial links between article 1 and other articles, such as article 20 on children in armed conflicts.

2. Article 4 bis (Children born out of wedlock)*

226. The working group had before it a proposal submitted by the Federal Republic of Germany (E/CN.4/1988/WG.1/WP.3). In introducing the proposal, the representative of the Federal Republic of Germany stated that the convention would not serve its purposes if it did not cover the situation of children born out of wedlock, who suffered a kind of discrimination. His delegation's proposal reproduced the terms of the European Convention on the matter. He recognized that the proposal could be objected to because national legislation in many countries was not in agreement with it, but he thought that the points proposed were minimal.

227. One speaker stated that an article reading, "Children born out of wedlock shall have the same rights as children born in wedlock." should be included.

228. Several speakers stated that the question of children born out of wedlock had been discussed at previous sessions of the working group, in which it had been evident that it was impossible to reach a consensus. A much shorter draft than the one proposed by the Federal Republic of Germany had been suggested but consensus thereon had not been reached. It was therefore impossible to insert such a detailed proposal at the current stage. Furthermore, in the discussion on that question in 1986, it had been made very clear that the problem was indeed covered by article 4 which established the principle of non-discrimination on the basis of birth.

229. The question, according to some speakers, caused many problems. Although the principle of recognizing children born out of wedlock was a good one, there were many countries in which it had not been incorporated in the legislation and customs and culture were in contradiction with it.

230. The representative of the Federal Republic of Germany stated that his proposal was aimed at extending the benefits of a convention, which was supposed to protect one of the weakest parts of society, to a portion of it which was even weaker, but having heard the various speakers he would withdraw his proposal.

3. Article 23 bis (Federal States)*

231. The representative of the United States of America, in introducing a proposal (E/CN.4/1988/WG.1/WP.17) for a provision concerning the obligation of federal or non-unitary States emphasized that the proposal was made in order to assist implementation of the convention in a federal structure and would not affect implementation in unitary States.

232. On the basis that the proposal could enable some federal States to become parties to the convention, which was one of the main purposes of such an instrument, a number of speakers said that they did not oppose its inclusion, but indicated that the central government had a primary responsibility for implementation.

233. Other speakers stated that federal clauses might establish a difference between federal States and the others, which was not considered appropriate, especially for human rights instruments. They objected in particular to the wording used in the proposal which did not reflect the consensus developed in the world on the language to be used in federal clauses. Some words of the proposal concerning the obligation of the central or national governments to implement the convention were considered vague (e.g. "suitable measures" or "appropriate measures") and unacceptable, in particular in the context of a human rights instrument. The wording of the proposal, if adopted, would considerably narrow the application of the convention in federal States. It was suggested that, as the federal States had organized their internal relations in different ways, they might study the possibility of making reservations.

234. The representative of the United States of America said that in view of the complexity of the question, he would withdraw the proposal. This might be a matter for a reservation upon consideration of ratification.

C. Other Proposals

235. During its session, statements were made to the effect that the proposals relating to the following articles should be considered by the working group during the second reading of the draft convention. In that connection, the representative of the Four Directions Council had expressed the hope, at the last meeting of the working group, that articles relating to family responsibility in upbringing and guidance as well as to conservation of a country's linguistic and cultural diversity as had been proposed by indigenous children would be taken up at the second reading.

1. Article 1, revision (Child-age, proposal from Finland, E/CN.4/1988/WG.1/WP.10) (see paras. 224 and 225 above)
2. Article 16, paragraph 1, new sub-paragraph (e), (Cultural, religious and linguistic rights, proposal from the USSR, E/CN.4/1988/WG.1/WP.2, chap. II)

"Education in the spirit of the inadmissibility of propaganda of war and of any advocacy of national or racial hatred that constitutes incitement to discrimination, hostility or violence;"

3. Article 21, new paragraph 2 (Other more favourable provisions, proposal from the Federal Republic of Germany, E/CN.4/1988/WG.1/WP.8)

"Nothing in this Convention shall affect the right and the duty of parents and, where applicable, legal guardians, to take such measures as are required for the upbringing and well-being of the child."

4. Article 21, paragraph 2 (Other more favourable provisions, proposal from Finland, E/CN.4/1988/WG.1/WP.2, chap. III)

"Nothing in the present Convention may be interpreted as implying for any State Party to the present Convention any right to impose any restriction upon or derogation from any of the fundamental human rights recognized or existing in that State Party by virtue of law, conventions, treaties, agreements, regulations or customs on the pretext that the present Convention does not recognize such rights or that it recognizes them to a lesser extent."

5. Article 23 (2) last sentence, (Reports from States parties, proposal from Venezuela, E/CN.4/1988/WG.1/WP.7)

"The reports (of the States parties) may indicate the concerns of their respective Governments, in the sphere of the protection due to children, in regard to situations not provided for in this Convention."

III. OTHER QUESTIONS

A. Numbering of the articles in the draft convention

236. At the request of the Chairman, the representative of Norway submitted a proposal for the renumbering of the articles of the draft convention (E/CN.4/1988/WG.1/WP.30). Some speakers stated that they hesitated to renumber the articles at that stage, because the work had not arrived at a point where a final renumbering could be done. In the meantime, it was better to keep the old numbering of the articles for easy reference of the members during the second reading. Otherwise, it would be necessary to refer to the new and the old numbers, which will not facilitate the discussion. The Chairman of the working group stated that he thought it would be useful to make some progress in the renumbering, but he agreed to postpone the question until the second reading.

B. Technical review of the draft convention

237. The question of a technical review of the draft convention was discussed on the basis of a proposal submitted by Australia (E/CN.4/1988/WG.1/WP.20). In the course of the discussion the members of the working group expressed their views on the main aspects to be considered when undertaking a technical review of the text.

238. Several speakers stated that they understood that in a technical review the text of the convention would be examined and its provisions would be compared with those contained in other international instruments in order to ensure that they met, as a minimum, the standards of other instruments of international human rights and humanitarian law. They did not agree with

including in the review an assessment of whether the provisions were such as to be realistically attainable immediately by all States. That was considered to be a matter that each individual state would decide when ratifying the convention.

239. One participant stated that the convention encompassed two categories of rights: those which could be immediately implemented and were therefore obligatory for the States parties and those which, though applicable, were to be fully realized progressively. It was their view that, in the technical review, those rights which, on the basis of existing international norms, were considered to be fully applicable immediately should be identified.

240. As the proposal mentioned the checking of the internal consistency of the articles of the convention, some delegations hesitated to support that formulation, which they found too vague. They stated that the internal logic of the convention should not be reviewed because all its articles were the result of a very difficult compromise and long discussion. In that regard, some speakers wished to confine the review to strictly technical aspects, the substantive ones being excluded as well as the areas of political controversy.

241. The observer for Egypt stated that the members of the working group were not bound by the review or by any document issued as a consequence of the review; a report would be submitted to the working group and it would be discussed at the working group's next session.

242. In connection with internal consistency, some speakers wished to have a list of definitions of terms used in the convention, which would be of great help for a correct understanding of the legal and practical effects of its provisions. For example, there was no definition of the concept of "parents" or "legal guardians". Were only biological parents concerned, or were other persons also entitled to be considered parents for some purposes, with equal responsibilities in relation to the child or children concerned? There was an analysis of definitions prepared by a non-governmental organization which could be of some help when preparing such a list for the Convention. This should be considered during the quality control exercise so that the issue could be resolved at second reading.

243. The linguistic aspects of the review were discussed in detail. One speaker proposed revising the language used in the draft convention when it was unnecessarily complicated. Another warned that a linguistic revision could bring about a change in meaning and there was a risk in effecting changes that went beyond the mere technical aspects. According to some speakers, no one intended to change the approach and to reopen the substantive debate, but in some cases, words could be improved to reflect better the intentions of the working group. The language should not be so simple that it lacked precision; it was necessary to find the most adequate words. It was also necessary to pay attention to the internal logic of the sentences and of each one of the articles and to take care that the language utilized did not imply any kind of discrimination, as certain forms of expression that could, in English, exclude women from the provisions of the draft convention.

244. Some delegations pointed out that the linguistic review should cover all the languages into which the convention would be translated.

245. All members agreed that overlap and repetition between and within draft articles should be identified.

246. In order to ensure that those who would conduct the review had a correct interpretation of the intentions of the members of the working group in drafting each of the articles, it was suggested that the reports of the different sessions of the working group could be made available to the persons in charge of the review.

247. An exchange of ideas took place as to who would be charged with the review. One speaker suggested that it should be carried out by an independent body, either the Centre for Human Rights or the Office of Legal Affairs of the United Nations. His view was shared by most of the delegations. One participant suggested that an independent interdisciplinary group should carry out the review. The need to have the review presented with the minimum delay possible was stressed by one speaker and supported by others.

248. The members of the group agreed that the Chairman on behalf of the group, should address a letter to the Secretary-General requesting a technical review of the draft in accordance with United Nations technical standards and practices regarding that kind of international instrument in which the points agreed upon in previous discussions should be underlined. A new text was drafted and adopted which reads as follows:

"Attached is the completed draft of the first reading of the convention on the rights of the child. The working group has proposed that this draft be circulated to all Member States so that their comments on it can be taken into account when the group conducts its second reading of the draft.

The working group has also proposed that the draft as it stands be the subject of a technical review taking account of accepted United Nations technical standards and practices regarding multilateral human rights treaties and treaties of international humanitarian law. In the view of the working group such a review, which would best be carried out by the United Nations Secretariat in advance of the second reading, might:

- identify overlap and repetition between and within draft articles;
- check for consistency in the text, including the use of key terms and the use of gender neutral language, and between the different language versions;
- compare the standards established with those in other widely-accepted human rights instruments, particularly the two International Covenants; and
- make textual and editorial suggestions and recommendations as to how any overlaps or inconsistencies identified might be corrected in the second reading, including through the consolidation and relocation of articles.

The working group has asked me to draw to your attention and to that of those who conduct the review, the report of the working group on its discussion of this issue. This will make clear the nature of the review envisaged. In particular, it was the firm view of the working group that the technical review should not enter into areas of substantive or political controversy but should be confined to technical issues.

In order for the technical review to be of full benefit to the working group, I would hope it could be completed by 31 August 1988.

Signed: Adam LOPATKA,
 Chairman of the working group
 on the draft convention on the
 rights of the child

IV. ADOPTION OF THE REPORT

249. The representative of Japan stated that since his delegation had not participated in the working group from the beginning of its work, he had not been able to comment on some of the articles of the draft convention. For this reason, he wished to reserve the right to make further comments during the second reading on various articles already adopted.

250. The Chairman noted that during the second reading all delegations would be invited to comment on the text of the draft convention which had already been adopted by the working group.

251. While drawing attention to the importance Senegal attached to the adoption of a convention on the rights of the child, the Senegalese representative nevertheless stated that the drafting exercise had failed to take account of the concerns of the developing countries and he expressed his concern over the imbalance of the draft, which did not reflect the universality that was desired. He felt therefore compelled to enter his delegation's reservations on the report, which, he stated, did not reflect the work of the working group and which was characterized by a selectivity of the delegations that had taken part in the drafting exercise, the consequence of which was an imbalance in the proposed text. He also indicated his misgivings concerning the future work of the working group if concerns and needs of the developing countries were not borne in mind at all times. He urged the working group to be more responsive to those countries in the course of the second reading of the draft convention so that there would be more chance of universal recognition of the future convention. By way of example, he stated that there continued to be many differences of opinion with respect to the definitions reserved for terms such as "guardianship", "adoption", "filiation", "legal situation of legitimate and illegitimate children", "protection of the child before birth", "custody of children", etc. This statement was supported by the delegations of Egypt and Morocco.

252. In this regard, the Chairman noted that participants from a wide range of developing and developed countries had taken part in the work of the group and that, through their declarations and suggestions, they had made significant and positive contributions to the draft convention which he felt reflected universal concerns. He stated that limits imposed by the General Assembly on the length of documents required the working group to adopt a style of report which did not permit a full account of each participant's statement. It was only possible to provide a summary of the main ideas. Thus, reference was made in the report to specific delegations only when a direct proposal had been made by that delegation, or the delegation had expressly asked that a reservation be included in the report.

253. The representative of Venezuela expressed the view that the first reading of the draft convention had not been completed. She hoped that this would be done at the working group's next meeting or, in any event, before the second reading began.

254. At the 22nd meeting of its tenth session, on 10 March 1988, the working group adopted the present report.