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Forty-fifth session

SUMMARY RECORD OF THE FIRST PART* OF THE 55th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 8 March 1989, at 3 p.m.

Chairman: Mr. QIAN Jiadong (China)
later: Mr. BOSSUYT (Belgium)

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* The summary record of the second part of the meeting appears as
document E/CN.4/1989/SR.55/Add.1

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shortly after the end of the session.

The meeting was called to order at 3.20 p.m.

STATEMENT BY MR. A. ADAMISHIN DEPUTY MINISTER FOR FOREIGN AFFAIRS OF THE UNION OF SOVIET SOCIALIST REPUBLICS

1. The CHAIRMAN welcomed Mr. A. Adamishin, Deputy Minister for Foreign Affairs of the Union of Soviet Socialist Republics and invited him to address the Commission.
2. Mr. ADAMISHIN (Deputy Minister for Foreign Affairs of the Union of Soviet Socialist Republics), having congratulated all the ladies present on the occasion of International Women's Day, said he wished, first of all, to identify some key elements in his Government's approach to the meaning and substance of the Commission's work.
3. It was evident to many that, pursuant to the new thinking, his Government was striving to make international relations more just, democratic and humane. Not the least important part of such a task was for the Soviet Union to change itself; and he was aware of the Commission's keen interest in what was taking place in his country. Programmes for renewal had been finalized in respect of practically all major areas of restructuring, and the implementation phase was beginning. Although problems and difficulties abounded, in the past four years stagnation had been replaced by openness, pluralism and efforts to release the great energies inherent in socialism.
4. The pace and scope of change were perhaps less than might be wished, but it should be borne in mind that a whole way of life and the habits of decades were being radically changed. A huge nation had to be set in motion by democratic methods alone; the restructuring processes required the involvement of everyone in order to provide the social energy needed to overcome inertia. Well-considered co-ordination was particularly important in order to avoid conflicts, both social and inter-ethnic. He had no doubt, however, that the socio-political change would gather momentum.
5. The entire national economy was undergoing radical reform. Work collectives were to take their own decisions; while some degree of centralization would remain, it would lose its rigid commanding role. The previous year had been the first ever in which labour productivity had risen while employment had decreased. Workers on the land were to have greater rights and opportunities. Many defence enterprises had been switched fully or partly to consumer-goods production - a unilateral move, as in some other areas. The political system was undergoing major reorganization aimed at restoring power to the soviets, providing the people with more self-government and changing the ruling party itself.
6. The central task was to develop a State based on the rule of law, by drawing on the best of overall democratic achievements. The current election campaign was no longer a formality but of real interest to the people. The draft electoral law had embodied thousands of amendments and proposals but was still the subject of keen and at times acrimonious debate; but practical experience would reveal the new system's merits and shortcomings, and the election would result in new supreme organs of power in which not only territorial and national entities but also social organizations would be broadly represented. The outcome might become an important addition to the one-party system that had grown up.

7. Another most important component was the draft basic principles of criminal legislation of the Soviet Union and of the Republics of the Union. A number of articles - including those relating to capital punishment - were being revised and the law was undergoing, together with many others, the severe but democratic test of nation-wide discussion. Although the Penal Code had yet to be revised, many past injustices had already been remedied, and no one was currently in prison because of political or religious beliefs.

8. He hoped that the Supreme Soviet would soon issue a decree on leaving and entering the country. But already virtually everyone who wished to leave the Soviet Union could do so; in 1988 106,000 persons had left the country to reside permanently abroad. Only 841 applications, 0.8 per cent of the total, had been turned down. The Soviet Union was not indifferent to the fate of those who left and of the more than 150,000 Soviet citizens and 20 million compatriots living outside the homeland.

9. The preparatory work, in which religious organization had been directly involved, for a law of freedom of conscience had been completed.

10. Although some human rights problems remained, the fact that they were being resolved one after another gave rise to confidence. Genuine co-operation was sought, aimed at real improvement in human rights - which required freedom of choice, renunciation of claims to a monopoly of the truth, and recognition of political and cultural pluralism. That in turn called for international solidarity, the genuine existence of which had been shown by the response, for which his Government was sincerely grateful, to the recent tragedies in Armenia. It also called for strength of policy and conviction, not a policy of persuasion through strength. It amounted, in the end, to plain common sense. As Lev Tolstoy had once said, reason was the only foundation which united all living persons into one.

11. That humanitarian co-operation was showing healthy signs of growth could be seen in bilateral relations - one example being the current visit to Soviet hospitals of a team of United States psychiatrists, which was not merely a gesture of good will but also an experience of mutual value. The agreement achieved at the Vienna session of the Conference on Security and Co-operation in Europe (CSCE) had likewise shown the enormous potential for freeing politics from the grip of militarism and ideological hostility, and had raised the CSCE process to a new level at which the initial outline of a common European home could already be discerned. Incidentally, there was a place in that process for the United Nations Centre and the Under-Secretary-General for Human Rights.

12. The talks on conventional arms and force reductions and on confidence-building measures in Europe had just started and, as the Soviet Minister for Foreign Affairs had said recently at Vienna, work towards overcoming the division of Europe had in effect begun. The Vienna meeting had also signalled a striking breakthrough in the field of human rights, as could be seen from its decisions relating to the human dimensions of the CSCE process. His Government highly appreciated the acceptance of its proposal to hold a conference on humanitarian issues in Moscow in 1991. As far as he knew, only the Soviet Union had hitherto mass-circulated the full text of the Final Act of the Vienna meeting.

13. Regardless of whether or not there was legal or moral justification for the view, persistently held in the West, that observance of human rights needed to be monitored everywhere but there, it was a view that undoubtedly hampered progress in political, social and economic human rights, both domestically and abroad. His country was willing to listen to criticisms from outside, but those who were willing only to lecture others should adopt realistic self-appraisal. The Commission's deliberations at its current session, although not entirely satisfactory to his country, revealed that it was possible to move away from confrontation to co-operation; one instance was the resolution adopted by consensus on Afghanistan. In that connection, the Soviet Union had continued, after the last Soviet soldier had left that country, its efforts to end the bloodshed and achieve internal peace and a political settlement.

14. He was authorized to announce a major new step pursuant to the Soviet Union's consistent policy of expanding the means of verifying the observance of human rights. In accordance with a Decree just adopted by the Presidium of the Supreme Soviet, the Soviet Union had recognized the compulsory jurisdiction of the International Court of Justice for the interpretation and application of five important international human rights agreements, namely, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, the Convention on the Political Rights of Women, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

15. The previous reservations had been withdrawn; a special notification to that effect was being forwarded to the Secretary-General. The action taken had given effect to Mr. Gorbachev's statement, on 7 December 1988, that ICJ jurisdiction on the interpretation of human rights agreements should be mandatory for all States. The Soviet Union would doubtless accede to the Optional Protocol to the International Covenant on Civil and Political Rights in due course.

16. The efforts to give greater prominence to the humanitarian aspects of Soviet foreign policy would continue, in line with the aim of establishing comprehensive security resting primarily on political, economic, environmental and humanitarian foundations. The policy based on new thinking was producing tangible results for the nation and, it could be said, for others too.

17. As had been recently pointed out, it might well be that, for the first time, the Soviet Union had enhanced its security politically while reducing rather than increasing the military factor. The Soviet Union would continue its policy aimed at its full integration into the political, economic and intellectual life of a diverse, contradictory and yet interrelated world, while retaining its own identity. That, it believed, was the only way to gain its second wind at the end of the twentieth century and prove to itself and others that the socialist system was effective, democratic and humane.

18. The CHAIRMAN, speaking on behalf of the Commission, thanked Mr. Adamishin, Deputy Minister for Foreign Affairs of the Union of Soviet Socialist Republics, for his statement.

QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD (agenda item 13)
(continued) (E/CN.4/1989/29 and Corr.1, and 48; E/CN.4/1989/L.88)

19. Ms. RADIĆ (Yugoslavia) said that her delegation had been actively involved for a number of years in the preparation of the draft convention. When adopted, it would become part of a remarkable collection of human rights instruments.

20. Her delegation treated as a priority the issue of ethnic, national, linguistic and religious minorities, and considered that insufficient account had been taken of some of its proposals in that regard. She was referring, not only to the rights of children belonging to minorities, but also to those of children of migrant workers. While it was clear that delegations had a wide range of priorities and interests, she was convinced that more specific provision should have been made for the enjoyment of such rights. In Yugoslavia, the children of national minorities were treated in the same way as other children in all fields. In particular, they could be educated in their mother tongue and practise their own religion.

21. Secondly, she expressed dissatisfaction with the way in which the deliberations of the last session of the Working Group on a draft convention on the rights of the child had been reflected in the report (E/CN.4/1989/48). Referring, in particular, to article 30 (former article 16 bis), concerning cultural, religious and linguistic rights, she said that the wording could have been more positive, having the effect of granting such rights. It should have been possible to go beyond the formulation "shall not be denied the right".

22. Mr. HOSSAIN (Bangladesh) said he was pleased that the task of preparing the draft convention had been successfully concluded. The text before the Commission was the result of long and strenuous efforts on the part of the Working Group over the course of a decade.

23. The leaders of the seven countries belonging to the South Asian Association for Regional Co-operation (SAARC) had called for the early conclusion and adoption of the draft convention by the General Assembly. His own delegation had contributed to the efforts to achieve a consensus on items which had, until the second reading, presented serious problems for a large number of countries, mostly in the developing world because their social and cultural conditions and legal arrangements governing matters such as inheritance, foster care and adoption, had made it difficult for them to accept certain provisions.

24. In common with other international standards laid down for a wide range of peoples of different backgrounds and traditions and with different levels of economic development, the draft convention had to be realistic rather than Utopian in kind. A delicate balance had been achieved through a spirit of understanding and compromise on the part of all those concerned. He hoped that the Commission would be able to adopt the draft by consensus, so that it could be adopted by the General Assembly at its forty-fourth session.

25. Mrs. EZZ (Observer for Egypt) said she wished to emphasize the important part played by the United Nations Children's Fund (UNICEF) during the second reading of the draft, when difficulties concerning provisions conflicting with domestic legislation had been resolved. After groups had been set up within

the Working Group to deal with articles of a particularly sensitive nature, it had proved possible to complete the task successfully. The final text was sensitively balanced and reflected a spirit of compromise. She referred, in particular, to articles 7 (right to name and nationality), 14 (freedom of thought, conscience and religion), 21 (adoption) and 38 (armed conflicts). With regard to the question of expenses (article 43), her delegation considered that the committee should be funded by the United Nations, and that it was not, in any case, for the Commission to settle the matter which would be dealt with by the General Assembly.

26. It was important not to disturb the delicate balance achieved in the text after several years of work. The Convention was universal in scope, covering the range of needs and seeking to protect children from all forms of exploitation. She emphasized, in particular, the importance of international co-operation, referred to in the last preambular paragraph, and the need for an effective follow-up mechanism to monitor implementation (articles 43 and 44). Adoption of the Convention was in the interest of all the children of the world.

27. Mrs. TEEKAMP (Observer for the Netherlands) said that her delegation had taken an active part in the preparation of the draft convention and regretted, therefore, that it was unable to join the sponsors of the draft resolution. Among other things, it had reservations with regard to the formulation of article 14 (freedom of thought, conscience and religion) since it thought that article 18 of the International Covenant on Civil and Political Rights provided a higher standard of protection. Furthermore, her Government did not consider that a consensus had been reached on the content of article 38 (armed conflicts).

28. Mr. ADJABI (Observer for Algeria) said that the question of codifying children's rights had long been a matter of major concern to the international community. Since the beginning of the century, it had been drawing up legal standards in order to protect and promote them.

29. The text before the Commission was the outcome of a long standard-setting process involving intense negotiations during which it had not always been easy to reach a consensus. The draft was a worthy attempt to take account of a range of concerns and of different cultural and socio-economic backgrounds.

30. Algeria, which had a very young population, welcomed the completion of the draft in a year commemorating both the thirtieth anniversary of the adoption of the Declaration on the Rights of the Child and the tenth anniversary of the International Year of the Child.

31. Referring to the question of children of mixed marriages that had ended in separation or divorce, he said that their distress was intensified by the complications that arose from the involvement of different legal systems. The Convention signed by Algeria and France in June 1988 represented an important step forward in that regard, being widely regarded as a model to be followed by other countries experiencing similar problems. It would be some time, however, before it took full effect, partly because it was a new type of instrument and partly because it involved slow legal procedures. Although a number of obstacles remained to be overcome, particularly those of a psychological nature, a number of cases had already been resolved satisfactorily.

32. Mr. KARL (Observer for Austria) emphasized the importance of the draft convention as a comprehensive legal framework for the welfare of children in generations to come. Children in many parts of the world were economically exploited, sexually abused, bought and sold or recruited to fight in wars. Such abhorrent practices and more common phenomena such as neglect and deprivation of basic rights, such as the right to food and education, must be addressed and provisions adopted to remedy the situation.

33. It had not been easy to draft a convention intended to serve as a common standard for a range of political, socio-economic and cultural systems. The United Nations Children's Fund (UNICEF) and other international bodies had provided expertise and non-governmental organizations had made valuable contributions.

34. His delegation's own participation had been guided by the principle of improving upon or, at very least, preserving the standards set by existing human rights instruments. Although in some cases a higher level of protection could have been achieved, the draft convention generally satisfied requirements. His delegation had expected, however, that there would be time for a substantive discussion within the Commission of a few selected issues on which no genuine consensus had been reached.

35. That applied, in particular, to the question of armed conflicts, (article 38) and to that of the financial arrangements (article 43). In both cases the Commission should have endeavoured to provide the General Assembly with a draft acceptable to all delegations.

36. With regard to article 38, the age limit of 15 might be consistent with Geneva Protocol I, but more protection was afforded by Protocol II and his delegation could not accept lower standards. In any case, only an age limit of 18 would satisfy humanitarian requirements. Allowing anybody below the age of 18 to become involved in armed conflicts was strictly inconsistent with the overall objectives of the draft convention, and it was deplorable that there should be so little concern for the physical and mental well-being of children forced to go to war.

37. With regard to the expenses of the Committee (article 22) (former article 43), his delegation preferred financing by the United Nations, rather than by the States parties to the convention, it being the duty of the international community to promote and ensure the effective protection of universally recognized human rights.

Draft resolution E/CN.4/1989/L.88

38. Mr. TOWPIK (Observer for Poland), introducing the draft resolution, said he was pleased that the Commission had completed its work on the draft convention, which had been initiated by a draft resolution proposed by his delegation 11 years previously.

39. The idea behind the convention was that children were an especially vulnerable group requiring particular care and attention. Furthermore, if children were better cared for, better understood and better educated, future societies would be more evolved and more open to contact and co-operation.

Making children the centre of concern could be of decisive importance with regard to the development of civilization and the solving of current and future problems.

40. A convention on the rights of the child could not be a panacea for all child-related problems. Being aware that its role and importance would depend upon its effective implementation, his Government hoped, however, that it would represent a significant step forward in the development of national and international law concerning children, play a mobilizing and educational role, lead to further action at the national and international levels, and make an important contribution to the development and promotion of human rights in general.

41. The proposed resolution was mainly procedural in kind and its content self-explanatory. Among other things, it provided for the adoption by the Commission of the draft in the form submitted by the Working Group, and the transmission of that draft to the General Assembly with a view to its adoption at the forty-fourth session. There were 36 sponsors representing different regions, degrees of economic development and social systems. He expressed gratitude to those delegations that had overcome their doubts in a spirit of mutual understanding, and had decided not to oppose the draft resolution. He hoped that it would be adopted by consensus.

42. Mr. Bossuyt (Belgium) took the Chair.

43. Mrs. MARKHUS (Observer for the Libyan Arab Jamahiriya) said that her delegation paid tribute to the Working Group on a draft convention on the rights of the child. In the course of the second reading of the draft, there had been protracted and difficult discussions, but a number of gaps had been filled and the imbalance noted during the first reading had been removed. The number and the geographical and political diversity of the sponsors reflected the world-wide importance attached to the adoption of a convention; it was clear that, once it had been adopted, the protection of children's rights throughout the world would be greatly enhanced. Her delegation had contributed to the drafting work reflected in document E/CN.4/1989/WG.1/WP.3, thus showing the continuing interest it attached to the task involved.

44. In the Libyan Arab Jamahiriya, children enjoyed the right to full educational, health, cultural and other services, as set out in the document on human rights established by the People's Councils, particularly in articles 13, 14 and 20, which upheld inter alia the right of the child to a secure home life and choice of future career.

45. While the draft embodied in the Working Group's report (E/CN.4/1989/48) did not contain everything her Government would have wished, it did nevertheless reflect the Declaration on the Rights of the Child and a more balanced approach. In the current world situation, children were often in dire need of protection. That fact should spur everyone to do everything possible to ensure that the General Assembly would be in a position to adopt the draft convention by the end of 1989, the tenth anniversary of the International Year of the Child.

46. Mr. BEN MALEK (Observer for Tunisia) said that the draft convention on the rights of the child, adoption of which would reinforce existing international legal instruments to protect and promote human rights, reflected

the world community's commitment to protecting the rights of children, who were society's weakest link. His delegation was pleased that the text of the draft took account of the world's social and cultural diversity, and it thanked the specialized agencies and the non-governmental organizations for their contributions.

47. Since 7 November 1987, his Government had been carrying out a broad programme for the further promotion of human rights, not least in relation to children, whose rights were covered by the 1957 Code of Personal Status and subsequent legislation to protect the family and deal with matters such as trusteeship, guardianship, visiting rights, adoption and fostering.

48. A number of further measures had been adopted, such as the establishment, on 21 May 1988, of a Higher Council for Childhood to help develop general policy in respect of the child. The work of the National Institute for the Protection of Children was being reviewed also. Particular attention was being given to children without families and to the establishment of special facilities to deal with abandoned and handicapped children. It had also been decided to group, under the Ministry of Social Affairs, all children's institutions, such as children's villages, and to update the legal system for the protection of children.

49. Measures were also being considered, including pilot leisure centres, to improve the urban environment as part of the efforts to combat child delinquency. A number of measures had also been adopted to assist the handicapped, such as encouraging businesses to recruit handicapped youths and raising funds to provide free hospital and health treatment for the handicapped. In addition, existing provisions in areas such as education, adoption, rehabilitation of delinquents, fostering and the protection of handicapped minors were being improved. The economic and social safeguards for children also covered such aspects as children's work, property and physical and moral integrity.

50. It was sad to note, at a time when a draft convention was about to be adopted and a broad range of human rights instruments already existed, that children's rights to education, legal safeguards and humane treatment continued to be violated and denied to children in the territories occupied by Israel and in southern Africa. In addition to the numbers of children and young persons who had fallen victims to Israel's repression, there were those still imprisoned in inhuman conditions, or still deprived of their fundamental right to education due to the closure of educational establishments.

51. Mr. ANDRES (Observer for Switzerland) said that his Government had always been in favour of the elaboration of international standards to improve the protection of certain groups of the most vulnerable persons, in particular persons deprived of liberty, refugees, women and children. His delegation had therefore participated as an observer in the meetings of the Working Group, which had resulted in a draft convention on the rights of the child.

52. Instead of a general convention dealing with virtually all the rights of the child, his delegation would have preferred to supplement the set of multilateral international instruments concerned with specific aspects of the protection of children that had already been concluded. Those conventions were effective in that they regulated in detail the specific issues affecting

children, such as adoption, children born outside wedlock, children of separated parents, children at work, sexual exploitation, and traffic in children.

53. While the draft convention contained some good provisions in that regard, it also had a number of articles which merely reiterated the human rights already covered by general conventions and, in particular, by the International Covenants on Human Rights. The draft convention also contained provisions which were not in keeping with the guidelines set forth in General Assembly resolution 41/120 on setting international standards in the field of human rights and which were thus not sufficiently precise to enable the resulting rights and obligations to be defined and implemented. Moreover, a few provisions of the draft were weaker than the general body of international human rights law. That was the case with article 14, on freedom of thought, conscience and religion and, in particular, article 38 on the situation of children in armed conflicts.

54. His delegation had always stressed the need for a provision such as that in article 38 to set the protection of children in armed conflicts at a level at least equal to that in existing law, namely the 1949 Geneva Conventions and the Additional Protocols of 1977. The formula decided on by the Working Group was not satisfactory in that regard. It did not limit the participation of children in hostilities to the same extent as the corresponding provisions of the two Additional Protocols and the formulation of the protection of children against the effects of hostilities was expressed in a much less binding way than in existing law. The time remaining before the next session of the General Assembly should be used to improve that provision.

55. With regard to article 43, paragraphs 11 and 12, on the financing of the committee on the rights of the child, his Government's position was quite clear: it was in favour of including the expenses of the committee in the regular budget of the United Nations. Experience with the 1984 Convention against Torture, which made the States parties to the Convention responsible for the expenses of the Committee against Torture, demonstrated that only financing through the regular budget of the United Nations would make it possible to provide the committee on the rights of the child with the resources needed for its proper functioning.

56. The draft convention enjoyed wide international support, including that of his Government. Once it had been adopted, it would have an undoubted effect on public opinion and promote increased awareness of the need for the protection of children.

57. Ms. BRYCE (Observer for Australia) said that the Australian Human Rights and Equal Opportunity Commission, of which she was a member, had taken an active interest in the process of preparing the draft convention on the rights of the child and supported an early adoption of the convention and its ratification by Australia.

58. Her delegation recognized and had some sympathy with the concerns expressed in the discussion about both the text and the concept of the draft convention. In particular, it shared the disappointment of those who would have liked to see article 38 increase the level of protection of children in armed conflicts under international humanitarian law and regretted the loss of the opportunity to achieve that.

59. Her delegation also understood the concern of some delegations about the possible effects of the convention on the relationship between the parent and the child. However, it felt that such concern was misplaced since the draft convention made abundantly clear the primary responsibility of parents for their children and the right of parents to provide guidance and bring up their children according to their beliefs and customs. The text as a whole, and article 5 in particular, made that very clear and would require States parties to respect the role of parents in regard to all the rights recognized in the convention.

60. It should also be recalled that the draft convention sought to protect those who did not receive protection of their rights through the family. Unfortunately, not all children grew up in a stable society with a secure family environment to protect them. Many children were born into such poverty that their families could not provide them with the nutrition, the essential health care or the basic education they required. Some children were not protected by their families from exploitation, some were subjected to abuse or neglect, and some never knew their parents or were rejected by their family.

61. The Australian Human Rights and Equal Opportunity Commission had recently completed a thorough investigation of child homelessness in her society and had found that children throughout the country were exposed to exploitation and vulnerable to denial of basic rights. Children in all those situations needed a statement of their rights, a statement endorsed by the entire international community which would emphasize the responsibility of governments to act.

62. In conclusion, she said that children in need of the protection of the draft convention were to be found in all countries, rich and poor, industrial and developing, socialist and free-market, and she urged all members of the Commission to support the draft convention.

63. Mrs. PACHECO EGEA (Observer for Uruguay) said that her country was a party to international and regional instruments concerned with the rights of the child. When it was considered that hundreds of millions of dollars were spent on armaments while many thousands of infants died throughout the world for lack of care, it was impossible not to doubt the value of so-called "progress". Her Government therefore urged all countries to continue to seek better solutions to ensure protection of the rights of the child.

64. Ever since the turn of the century, Uruguay had been in the forefront of efforts to protect children. It had signed a number of international instruments regulating the rights of children, including the American Convention on Human Rights. In July 1981, Uruguay and Argentina had signed one of the first Latin American agreements on the international protection of children. Moreover, in November 1987, the Prime Minister of Spain and the President of Uruguay had signed an agreement on conflicts of law in judicial procedures relating to minors. An inter-American conference on international private law, which was to be held shortly at Montevideo, would include in its agenda items concerning children, such as kidnapping and the provisions of funds for children's health care services.

65. Mr. DAO (International Labour Organisation) said that the main aspects of the rights of the child which came under the mandate of the ILO had been incorporated in the draft convention. Moreover, the safeguard clause, as

contained in draft article 41, should serve to ensure that other international standards, relating to the specific aspects of the various rights defined in the text, were respected.

66. One of the most serious issues under the draft convention concerned child labour, in particular the exploitation of children without any concern for minimum age standards and frequently in inhumane working conditions. ILO had a special mandate for the protection of children with regard to employment and work. Many conventions had been worked out in that area, underpinned by a programme of practical research and activity.

67. His organization co-operated actively with the other organizations of the United Nations system, as well as with other bodies and non-governmental organizations, in joint action for the protection of the child. In that regard, it welcomed the fact that article 45 of the draft convention made provisions for the participation of the specialized agencies and other competent organs in the work of the future committee on the rights of the child.

68. Mr. DEMIRALP (Observer for Turkey) said that, as a result of endeavours to secure a consensus, the text of the draft convention contained some imperfections and was not completely satisfactory. The statements made by his delegation in respect of some articles during the meeting of the Working Group were reflected in its report (E/CN.4/1989/48).

69. Subparagraph (d) of new article 17 referred to terms on which there was no agreed definition. Consequently, States parties would be obliged to interpret those terms in accordance with national legislation. Such a reservation might have to be made when the draft convention was opened for signature. He wished to place on record that his delegation continued to hold the views which it had expressed on other provisions of the draft convention and which were reflected in the report of the Working Group.

70. Mrs. BEYELER (International Movement ATD Fourth World) said that, while it was owing to concern for the most disadvantaged children that work had been started on the draft convention at all, it was not at all certain that they would themselves benefit from the progress made and the resources made available. Experience seemed to teach that, in all countries, the poor were largely excluded from the development process.

71. The poverty in which such people lived caused a break in the ties which bound them to their original community and, whether they were families living in the slums of the industrial countries, in backward rural areas of the developing countries, or the shanty-towns on the edges of third-world cities, they were alone, misunderstood and despised. To bring up their children, they could rely only on their own reserves of day-to-day courage and resourcefulness.

72. Throughout his life, Father Joseph Wresinski had tried to break that lonely circle in which families found themselves by enlisting all the forces of the community. He had always given priority to infants and, when ATD Fourth World was being established, his first act had been to found a kindergarten for the very young. He had hoped that the draft convention would specifically stress the importance of helping infants living in poverty and of ensuring the most effective protection for their families.

73. By its resolution on human rights and extreme poverty (E/CN.4/1989/L.12), the Commission had allied itself with the poorest families throughout the world. The convention on the rights of the child could be a valuable tool for implementing that alliance and for sustaining the courage and the hopes of such families. If decisive progress were to be made, it was necessary that those millions of impoverished children should become the Commission's constant concern.

74. Through the regular assessment of the advances made in all the areas of the convention, it should be possible to measure the progress effectively made with regard to those children. That was why Father Joseph had hoped that the periodic reports of each State party would make specific reference to such progress. The same was true with regard to the periodic assessments made by intergovernmental and non-governmental organizations at national and regional seminars as well as at meetings of expert committees.

75. Mrs. BECK (World Movement of Mothers) said that many universally recognized rights of the child were violated in a number of countries. Her organization denounced the poverty, beatings, abandonment and prostitution to which children were subjected. To make a positive contribution to the solution of those problems, her organization had concerned itself in particular with the plight of abandoned children. It had held a symposium on adoption at Geneva in May 1988 and had approved a programme of action in which emphasis was placed on the right of the child to a family.

76. After recalling the rights of the child as defined in the Declaration of the Rights of the Child and other instruments, the programme declared that, from its conception, the child needed careful protection and a recognition that its interests were of prime importance. All necessary aid for the development of the child must be given to its natural family.

77. Every child had the right to belong to a family which cherished it and, where the natural family was non-existent or defective, an endeavour should be made to find a foster or adoptive family for the child. The placing of children in institutions should be utilized only for exceptional cases or as a temporary measure. It was essential to facilitate and simplify adoption procedures and to combat any traffic in children.

78. It was also necessary to develop a world policy on adoption and, to that end, an international centre responsible for collecting data on the situation of abandoned children should be established. Lastly, it was essential to ensure that the adopted child was recognized as a fully-fledged citizen.

79. Mrs. FARHI (International Council of Jewish Women) said that her delegation was most disappointed that article 14 relating to freedom of thought, conscience and religion had been voided of all substance. As had been pointed out, the existence of provisions enshrining the principle of freedom of religion or belief did not in itself constitute an absolute guarantee of respect for that principle. Article 14 did not confer on the child, even as an adolescent, a right to choose his religion or belief. Article 18 of the Universal Declaration on Human Rights was quite clear in that respect as was article 18 of the International Covenant on Civil and Political Rights, and it was most surprising that neither of those provisions was reflected in the draft convention on the rights of the child.

80. The 1981 Declaration on the Elimination on All Forms of Intolerance and of Discrimination Based on Religion or Belief not only reproduced the provisions of the Universal Declaration and the International Covenant on Civil and Political Rights but also added seven articles designed to provide specific and improved guarantees for the right to freedom of conscience.

81. The final document recently adopted at Vienna by the Conference on Security and Co-operation in Europe (CSCE) stipulated that States parties had to respect the right of every person to give and to receive religious education in the language of his choice, but there was not a single word in the draft convention concerning the right to religious education. A child's right to information was, however, firmly established in article 17 of the draft. It was significant that States which enlisted children of 15 years of age as soldiers were for the most part the same ones which refused them independence of thought when it was a question of religion or belief.

82. It might be argued that article 41 of the draft convention constituted a safeguard clause but, if that were so, she was unable to understand why the guarantees in question could not be spelt out clearly in the text itself.

83. In conclusion, she stressed the importance which her delegation attached to the draft convention and hoped that, before its final adoption by the General Assembly, the necessary amendments would be made to ensure that it was a truly effective legal instrument.

84. Ms. EK (Rädda Barnen International) said that her organization was greatly concerned about article 38 of the draft convention, which the International Committee of the Red Cross interpreted as weakening the rule of the two Additional Protocols of 1977 to the Geneva Conventions. During the deliberations of the Working Group there had been overwhelming support by Governments to strengthen the provision, as could be seen in the report of the Working Group (E/CN.4/1989/48), but unfortunately, that was not reflected in resolution E/CN.4/1989/L.88. A crucial standard providing for States parties to the Convention to take all feasible measures to ensure that no child took a direct part in hostilities - which had twice been adopted by the Commission by consensus - had disappeared from the current text. The non-governmental organizations were seriously concerned about the problem of child soldiers. Most of the children recruited for combat service would not be covered by article 38, which concerned only children below the age of 15 years.

85. In her delegation's opinion, there was still a possibility of reaching a consensus on the article and she therefore urged Governments to improve the protection for children in armed conflicts prior to the adoption of the draft convention by the General Assembly at its forthcoming session.

86. Mr. YELLOWHAIR (Four Directions Council) said that he was speaking on behalf of the Lakota Treaty Council, the Grand Council of the Crees of Quebec and the Indian Council of South America, as well as on behalf of his own organization.

87. The list of particularly vulnerable groups referred to by the Chairman of the Working Group on a draft convention on the rights of the child must clearly include indigenous peoples. For those peoples, children were an

absolute priority and, if they were unable to teach them their languages, cultures and religions, those peoples would disappear. The rights of the child thus constituted for them a question of survival.

88. Governments had constantly tried to convince those peoples to give up their beliefs, but they had always resisted. When they resisted, their children were taken away on the pretext that it was in their best interest to grow up as non-indigenous people. In many countries of the Americas, that practice was continuing and indigenous children were even being exported to Western Europe. He was appalled at the fact that the draft convention condoned the practice of arranging for the adoption of Indian children in foreign countries.

89. The indigenous peoples had been fighting for many years against the idea that it was in the best interest of indigenous children to be removed from their own cultures and communities. In particular, they had urged the Working Group to recognize the importance of strengthening families and communities. They had explained that, in their cultures and in most parts of the world, children spent a great part of their time with relatives other than their parents and that those extended family relationships should be recognized and protected.

90. As a result of those efforts, some articles of the draft convention referred to the importance of continuity in a child's upbringing and to the importance of families. There was no clear recognition of extended families, however, nor was there any requirement that States should take into account the actual social and family structure prevailing in the communities in which children lived. That was strange, since a member of seminars and conferences had stressed the importance of respecting and strengthening existing patterns of family life.

91. His greatest disappointment, however, was that the Working Group did not listen to the children themselves. The delegation of his organization to the January 1988 meeting of the Working Group had included two Indian high-school students, who had explained their concerns about protecting indigenous families and cultures. They had made some specific proposals, but the Working Group had not considered them.

92. His delegation supported the text of the draft convention, however, and urged the future committee on the rights of the child, UNICEF, and the Centre for Human Rights to give priority to examining the cultural dimensions of the concept of the "best interests of the child" and the significance of respecting different patterns of family life, for the protection and welfare of children.

93. Mr. SHERWIN (International Right to Life Federation) said that his delegation was particularly pleased that the ninth preambular paragraph (former preambular paragraph 6) of the draft convention on the rights of the child contained a reference to the appropriate legal protection of the child "before as well as after birth". However, paragraph 46 of the report of the Working Group (E/CN.4/1989/48) mentioned that the Chairman had, after the adoption of that preambular paragraph read into the record the statement that was contained in paragraph 43 of the report. The precise meaning or relevance

of that statement, which had been made "on behalf of the entire Working Group", was unclear to his delegation which wondered what effect, if any, it could have on the proposed convention as a whole.

94. It appeared from paragraphs 44 and 47 that one delegation had been particularly concerned that the domestic legislation of some States might be found to contradict the spirit and the effect of the ninth preambular paragraph (preambular paragraph 6), in particular with respect to article 1 and article 6 (former article 1 bis). It was possible that the statement had been inserted to allay such concerns on the part of that delegation and any others which felt that domestic legislation might not permit them to accept fully the effect of the ninth preambular paragraph on the articles of the draft convention. His delegation was at a loss to understand how the ninth preambular paragraph (preambular paragraph 6) could influence the interpretation of either article 1 or article 6 (former article 1 bis) in such a way as to make some States uneasy about their ability to comply with them.

95. His delegation thus suggested that the reference to the statement contained in paragraph 43 should be removed from the Working Group's report or, if that was not possible, that a reference be inserted at the end of paragraph 46 to show that there had not been a consensus regarding its insertion or its effect.

96. Ms. TOM (Caritas Internationalis) said that her organization appreciated the enormous amount of work that had been put into the preparation of the draft convention on the rights of the child. The text before the Commission went a long way towards defining the rights of the child and the protection it should enjoy. It also alerted people to many of the dangers which the child might encounter on its way to maturity. In times of war, strife and violence, family life was severely disturbed, and the most defenceless were the children.

97. Unfortunately, it was precisely in areas of military or civil conflict that humanitarian efforts to assist children were often hampered - or at least not fully supported - by the local authorities. When faced with a situation in which it was prevented from rendering assistance, Caritas, like the other humanitarian organizations, had been forced to abandon hundreds of thousands of human beings crying out for help. Regrettably, that was currently the case in many countries.

98. In its resolution 43/131, the General Assembly invited all States in need of humanitarian assistance to facilitate the work of intergovernmental and non-governmental organizations in implementing humanitarian assistance, in particular the supply of food, medicines and health care, for which access to victims was essential. Further, the Assembly urged States to facilitate, to the extent possible, the transit of humanitarian assistance.

99. In its resolution 43/112, the General Assembly had expressed its profound concern that the situation of children in many parts of the world remained critical as a result, inter alia, of natural disasters and armed conflicts. Caritas believed that, when the survival of a child was at stake, States had the moral obligation to come to its assistance.

100. Mr. HARDER (International Save the Children Alliance) said that the best investment which the international community could make was in its children. States should foster the right conditions to facilitate the advancement of

children, and a collective approach to improving health care, small-scale enterprise development, education, agriculture, appropriate technologies and training would help children and their families to achieve self-reliance. Since its approach encompassed that broader spectrum of community-based, integrated and participatory development as well as advocacy for children's rights and social welfare, the Save the Children Alliance believed that its activities were in conformity with the draft convention on the rights of the child.

101. The draft convention provided the International Save the Children Alliance with an opportunity to reaffirm its principles, and established a new juridical framework for children's rights as a set of standards against which the Alliance could measure itself. The entire international community - national Governments, multilateral agencies, non-governmental organizations, civic groups and many others - should endeavour to live up to those standards.

102. Ms. UNDERHILL (International Institute of Higher Studies in Criminal Sciences) said that, in 1979 and 1980, the International Association of Penal Law had held two seminars on the control of experimentation on human beings at the International Institute of Higher Studies in Criminal Sciences. The Association had drawn up, in English and French, a draft convention for the prevention and suppression of unlawful human experimentation, draft principles for the international regulation of human experimentation and draft guidelines for national legislation concerning human experimentation. However, the drafts did not cover unlawful experimentation on children which, it had been assumed, would be dealt with in the convention on the rights of the child.

103. The Working Group had discussed the problem of unlawful experimentation on children, and a text had been proposed by a number of its members. Regrettably, however that text had not been adopted. Her delegation thus hoped that another international organization would study the problem in depth and find a solution to protect children from adverse and unlawful experimentation.

104. Mr. MacPHERSON (Friends World Committee for Consultation) said that, while his organization welcomed the draft convention on the rights of the child, it believed that the draft convention was deficient in one major aspect. Draft article 38 referred to the recruitment of children into the armed forces and the participation of children in hostilities. Although it was clear from the debates which had been held in the Working Group (E/CN.4/1989/48, paras. 602-616), that many delegations believed that draft article 38 did not provide adequate protection to children, there had unfortunately been no consensus on the wording of paragraph 2 of the article. His organization was unable to accept the argument put forward by one delegation that the draft convention should merely restate an existing principle of humanitarian law. It was essential to have strong and unambiguous norms, and his delegation hoped that draft article 38 would be revised before the General Assembly adopted the draft convention later in the year.

105. Mr. BANDIER (International Association of Educators for World Peace) said that the future of the world's children was threatened by increasing poverty, hunger, malnutrition, chronic unemployment, the external debt of developing countries, the population explosion, traffic in narcotic drugs and the forced

labour and prostitution of minors. If the international community did not take immediate measures to halt the world's declining economic and social situation, the future of mankind in general and of children in particular, would remain precarious.

106. It was essential to teach children, from an early age, about their duties towards their families, friends, schoolmates and superiors, while ensuring that children had the right to require the latter to perform their own duties. Such duties should be clearly and precisely defined in a declaration on the responsibilities of every individual with respect to his society. Without such an instrument, the Universal Declaration of Human Rights could not be fully implemented. Children would be taught about such duties first by their parents and later by educators. Within one generation, a new form of society would arise, which would be able to satisfy the legitimate aspirations of its citizens.

107. Mr. CANTWELL (Defence for Children International), speaking on behalf of 35 non-governmental organizations in consultative status with the Economic and Social Council, said that, in addition to their participation in the drafting of the convention on the rights of the child, the non-governmental organizations had been major contributors, both as a group and individually, to the public awareness and support from which the future convention was benefiting. Scores of successful international, regional, national and local initiatives focusing on the draft convention had been undertaken or supported by the non-governmental organizations and Governments had, invariably, expressed their appreciation of such efforts.

108. The non-governmental organizations had grave misgivings, however, about parts of the draft convention, such as the limited recognition given to the actual or potential primary role of extended family members in caring for and bringing up children. The absence of a specific reference to protection from medical experimentation was also a cause for concern and considerable disappointment, particularly in view of the world-wide consensus on the issue.

109. All non-governmental organizations were disturbed at the amazingly low level of protection that certain Governments seemed prepared to afford to children in armed conflicts, especially with regard to the direct participation of children in hostilities. Those few Governments which had forced a consensus on such low standards should examine the practical implications of their stance and should revise their position before the General Assembly adopted the draft convention later in the year.

110. The non-governmental organizations were also concerned at the revisions which had been made to the article on freedom of thought, conscience and religion, which represented a clear diminution of the standards contained in the existing international instruments. However, if the current draft reflected the standards of child welfare and protection which the governmental representatives of the world's population believed to be just and feasible, the non-governmental organizations he represented would support the adoption of the draft convention, albeit with certain misgivings.

The summary record of the second part of the meeting appears
as document E/CN.4/1989/SR.55/Add.1.