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Fifth Session

SUMMARY RECORD OF THE ONE HUNDRED AND THIRTEENTH MEETING

Held at Lake Success, New York, on Friday, 3 June 1949, at 2.45 p.m.

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Chairman:

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Rapporteur:

Mr. Malik

Lebanon

Members:

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Mr. LEBEAU

Belgium

Mr. SAGUES

Chile

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CHITTO

Mr. CHANG)

China

Mr. CHA

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Mr. LOUTFI

Mr. SOEKENSEN

Egypt

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France

Mr. CASSIN

Mr. GARCIA BAUER

Guatemala

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dembers: (continued)

India

MATTEZAM

Iran

Mr. INCLES

Philippinse

Mr. HOVALENEO

Ukrainian Soviet Socialist Republic

Mr. PAVLOV

Union of Soviet Socialist Republics

Miss BOWIE

United Kingdom

Mr. MORA

Haruguar

Mr. VILFAN

Yugoslavia

Representative of a specialized agency:

'Mr. ARMALDO

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Consultants from non-governmental organizations:

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Miss SENDER

American Federation of Labor (AF of L)

Mrs. MEAGHER

World Federation of Trade Unions (WFTU)

Category B

Mys. AIETTA

Catholic International Union for Social Service

Mr. NOLDE

Commission of the Churches on International Afrairs (CCIA)

Mrs. CARTER

International Council of Women (ICW)

Mr. SCCTT

International Teague for the Rights

of Man International Union of Catholic Women's Leagues (IUCWL)

Miss SCHAFFER

Secretariat:

Mr. HUMPHREY

Representative of the Secretary-General

Mr. LAWSON

Secretary of the Commission

Mr. SCHWELB

Human Rights Division

Mr. FELLER

Legal Department

Mr. LE BOSQUET

Departme: of Conference and General Services

QUESTION RAISED BY THE REPRESENTATIVE OF THE UNION OF SOVIET SOCIALIST REPUBLICS CONCERNING THE SENTENCING TO DEATH IN GREECE OF TEN MEMBERS OF THE SEAMEN'S UNION

Mr. FAVLOV (Union of Soviet Socialist Republics) laid before the Commission a telegram which he had just received which requested the Commission on Human Rights to intervene on behalf of ten persons condemned to death. In November 1948, ten members of the Greek Seamen's Union, whose only offence had been that they were democrats, had been sentenced to death in Greece. Since the Reprieves Board was shortly to decide on their case, Mr. Pavlov would like the Commission on Human Rights, or the Secretary-General to intervene, and telegraph to Athens to ask that they should be reprieved.

He recalled that during the first part of the third session of the General Assembly, the fresident, Mr. Evatt, had sent a telegram in a similar case, thereby saving the lives of several union members. Mr. Pavlov also recalled that when the Commission had considered the articles concerning the death penalty, he had asked Mrs. Roosevelt which article was being infringed by Greece, where hostages were being shot at that time. The reply had been that that action violated several articles of the Declaration and the Covenant. There was also the case of the Arab refugees in Palestine, on which the Commission had taken a unanimous decision of a purely humanitarian nature.

The Commission owed it to itself to perform the same humanitarian duty on this occasion, and he hoped there would be no need to ask for a roll-call vote. The Commission could request its Chairman or perhaps the Secretary-General to intervene with the Greek Government.

The CHAIRMAN drew the attention of the Commission to the fact that Mr. Evatt had sent his telegram, not in his capacity as President of the General Assembly, but in a purely personal capacity. If any of the members of the Commission wished to request a reprieve for the condemned men, they could do so in their private capacity. The Commission, as such, could not investigate a decision which a Government had made in accordance with its national legislation.

Mr. ENTEZAM (Iran) stressed the seriousness of the question which involved the lives of human beings. Moreover, the Commission would create a precedent by intervening. The Commission on Human Rights was not in a position to act before the Covenant and measures of implementation had been signed. He suggested that the question should not be discussed and that it should be left to the Chairman to consult the legal Department, to take note of the telegram sent by Mr. Evatt and, if she deemed it advisable, to send a telegram in her own name, which would certainly be taken into consideration by the Greek Government.

Mr. LEBFAU (Belgium) said that, as human beings, the members of the Commission could not be indifferent to the sentencing of other human beings to death and that it was an extremely serious matter that trials could still result in deprivation of life. In reaching a decision, however, the Commission could not consider merely the humanitarian aspect of the question. It could act only within the framework of its terms of reference and in conformity with the Charter of the United Nations. Article 2, paragraph 7, of the Charter did not "authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state...". As for the Commission, as long as the Covenant had not been signed, it remained merely an advisory body of the Economic and Social Council. Consequently Mr. Lebeau could not see how the Commission could intervene and he thought Mrs. Roosevelt should not take any special steps.

The general attitude of the Commission to that matter would have been somewhat different if it had been presented by another member of the Commission and not by the representative of the USSR, whose Government had constantly slandered the lawful Government of Greece, which was a Member State of the United Nations. It was impossible not to discern political motives in this case. The representative of Belgium therefore suggested that the Commission should not comply with the request of the USSR.

Although sharing the general feeling on the human aspect of the case, the CHAIRMAN said that the Commission could not investigate the matter.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) supported the proposal of the USSR representative. There was no question of any intervention by the United Nations in the domestic affairs of a State, as the representative of Belgium had affirmed. In that connexion he stressed the fact that States, in becoming signatories to the Charter, had relinquished some of their prerogatives. The Commission on Human Rights would not interfere. Its task would simply be to draw the attention of the Reprieves Board to the humanitarian aspect of the case and to the Universal Declaration of Human Rights.

The CHAIRMAN stated she would not put that question to the vote. She would make enquiries on the subject of the telegram sent by Mr. Evatt, and would consult the Legal Department and then inform the Commission.

Mr. CASSIN (France) explained that he had asked to speak before the Chairman's statement in order to request her to study the precedent constituted by Mr. Evatt's statement of 1948. For his part, he was prepared to sign a telegram requesting that the unfortunate men should be reprieved.

Mr. PAVLOV (Union of Soviet Socialist Republics) did not insist on a vote on the question since the Chairman had a perfect right to study the legal aspects of the problem. A body with a name like the Commission on Human Rights could not remain indifferent to a question which was a matter of life or death to ten persons. The representative of Belgium had approached the matter from the political point of view in order to evade all responsibilities and had seized upon the occasion to attack the Government of the USSR in a regrettable manner. Humanity would not pardon an indifference which sought to justify itself by such pretexts. (1)

REPORT OF THE COMMITTEE ON THE YEARBOOK ON HUMAN RIGHTS (E/CN.4/169, E/CN.4/289, E/CN.4/290, E/CN.4/AC.8/1, E/CN.4/AC.8/2, E/1310)

Mr. CHA (China) submitted and read the report of the Committee on the Yearbook on Human Rights (E/CN.4/290). He pointed

⁽¹⁾ This discussion is continued further on in the present summary record.

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out that the Commission had before it two draft resolutions, one submitted by the Ukrainian SSR (E/CN.4/AC.8/1) and the other by Guatemala (E/CN.4/AC.8/2).

Mr. CASSIN (France) said he would accept the draft of Cuatemala as a basis for discussion, but with two reservations. He wished the words "in Russian" and "in Chinese" to be added at the end of the first paragraph, because, on the one hand, the Yearbook had to be published in all the working languages of the United Nations, and on the other hand, it was a document of international interest, the reading of which should be encouraged. Moreover, in order to lighten the task of the Secretariat, which had both a limited personnel and a limited budget, Mr. Cassin proposed adding, at the beginning of paragraph 2, the words "as soon as that will be possible".

Mr. GARCIA BAUER (Guatemala) pointed out that his request for the publication of the Yearbook in the Spanish Language did not concern the past, but, as he had explained to a representative of the Secretariat, the future. The Secretariat had taken that explanation into account when it had prepared the estimate of costs (E/CN.4/289).

The CHAIRMAN drew the attention of the Commission to the fact that the recommendation to include court decisions in the Yearbook in 1949 had been taken by the Commission itself at its third session.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) stated that the Economic and Social Council had adopted a resolution (192 VIII B) at its eighth session, deciding to give further consideration to the inclusion of court decisions in the Yearbook at its ninth session. He stressed the fact that the Secretariat was already late with the publication of the Yearbook, and that if the draft resolution of Guatemala were adopted, the task of the Secretariat would only be made more onerous, and expenditure would be increased. Moreover, while the court decisions appearing in document E/CN.4/169 were interesting, they were of a domestic character; from the standpoint of international law, they were not as interesting as was generally believed. If it was absolutely essential to increase the size of the Yearbook, the

Ukrainian delegation thought it would be much more useful to include in it all the texts of laws on human rights in non-self-governing and trust territories.

Mr. GARCIA BAUER (Guatemala) submitting his delegation's draft resolution, stated that it contained three main ideas. In the first place, it stated that the Yearbook on Human Rights, which had already been published in French and in English, should also appear in Spanish. Spanish was the national language of at least sixteen Members of the United Nations, and had just become a working language in the General Assembly.

Mr. Garcia Bauer recalled that the Secretariat had submitted an estimate of the cost which the translation of the Yearbook into the various official languages would entail. Without knowing precisely how those estimates had been arrived at, it was permissible to believe that they were slightly exaggerated, and that twenty thousand dollars would not be needed for the publication of the Yearbook in Spanish. Furthermore, it had to be borne in mind that much of the information to be used in the Yearbook had been provided in Spanish, which would correspondingly decrease the cost of translation.

The draft resolution also pointed to the need for limiting the decisions which would appear in the Yearbook to those which had been by higher courts. In that connexion, Mr. Garcia Bauer underlined the fact that the English expression "Supreme Court" was poorly chosen because its meaning was too restricted. The term used should be higher courts in general; that could apply to the special courts which, in many countries, were charged with ensuring the respect of certain special rights, such as the right of asylum.

The decisions taken by other courts should appear in the Yearbook only in the form of a summary and should be published in full only if they were sufficiently important. The decisions should also be of international interest.

Mr. LEHEAU (Belgium) stressed the fact that the Commission's duty was simply to express a general opinion on the sample studies contained in the Secretary-General's memorandum. Consequently he could not see the exact scope of the two draft resolutions which had been submitted, and wondered whether they should be discussed.

The CHAIRMAN pointed out that the Commission had to decide whether the sample studies prepared by the decretary-General should appear in the Yearbook. The draft resolutions dealt with that question, and it was therefore quite normal that the Commission should examine them.

Mr. LEPEAU (Belgium) approved the contents of paragraph 1 of the operative part of the Ukrainian draft resplution, which was in complete conformity with the views of the Belgian delegation. Belgium had always thought it useless to include isolated court decisions in the Yearbook: that publication would in fact result in considerable expense; moreover, in the present state of national as well as international law, it was practically impossible to establish a distinction between those court decisions which were important from the point of view of huran rights, and these which were not.

Mr. Lebeau had no objection to paragraph 2 of the operative part, which proceeded directly from paragraph 1, but which he thought superfluous.

Turning to paragraph 3, the Belgian representative remarked that the existing legislative texts on human rights in non-self-governing and trust territories were generally those which were applied in the metropolitan country. However, he saw no reason why the Secretary-General should not undertake the study of those texts, if that were feasible.

If the Yearbook on Human Rights were published in Spanish, as the draft resolution of Guatemala proposed, there was no reason why it should not appear also in Russian and Chinese. The Yearbook was principally a reference work, intended for jurists and specialists, and not for the public at large. The costs involved in its publication in all the official languages would be out of proportion to the advantages or real value of the whole operation.

Mr. SOERENSEN (Denmark) acreed with the representative of Belgium that, as the Yearbook was not a popular work, there was no need to publish it in the five official languages.

As for the court decisions, they were often of greater interest than the laws; but it would be difficult to recommend their insertion in the Yearbook for the time beine, and the criticism that had been made in regard to the sample studies by the Secretariat was Justified. Moreover, the Yearbook had so far consisted only of a general study of the constitutional provisions relating to human rights, without dealing with the legislation of the various countries. It would therefore be necessary to include, in addition to the court decisions, the text of the laws on which those decisions were based, and that would entail considerable research and heavy expenditure.

In regard to paragraph 3 of the operative part of the draft resolution of the Ukrainian SSR, Mr. Sperensen pointed but that so far no distinction had been drawn between non-self-governing territories and sovereign States. Certain provisions relating to non-self-governing territories had therefore already appeared in the Yearbook.

The representative of Denmark proposed that the Commission on Human Rights should recommend to the Economic and Social Council to continue the publication of the Yearbook in the same way as before, and to leave to the Secretary-General the task of deciding whether or not 1t was necessary to insert the court decisions.

The CHAIRMAN remarked that, in the countries where human rights were protected by the courts, court decisions were much more important than the laws themselves. The decisions should therefore appear in the Yearbook.

Miss BOWIE (United Kingdom) opposed the inclusion of court decisions in the Yearbook and approved paragraph 1 of the draft resolution of the Ukrainian SSR.

She pointed out that the draft resolution of Guatemala might mean that very important decisions taken by courts of first instance -- which did not reach higher courts because no appeal to the latter was made -- would be overlooked. Moreover, a large and highly specialized staff would have to be recruited to cope with all the research work necessary for the application of that draft.

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Mr. SAGUES (Uruguay) proposed that the Guatemalan draft resolution should make it clear that it was the future editions of the Yearbook which would be published in Spanish. It would be possible to reduce appreciably the cost of publication by printing the Spanish edition of the Yearbook in Latin America.

estimate had been based on the publication costs of the Yearbook for the past three years, and that it represented a minimum. He would be quite prepared to consider the possibility of printing the Yearbook in South America; up to that time such a procedure had never been possible on account of the limited time allowed for the publication of documents.

Mr. PAVLOV (Union of Soviet Socialist Republics) pointed out that no difference should be made in the treatment accorded to the various official langua as. If it were decided to publish the Yearbook in Spenish. It should appear also in Russian and Chinese.

In view of the small number of legislative provisions concerning human rights existing in Trust Territories, the proposal that the Secretary-General should collect all the texts of those provisions and include them in the Yearbook was perfectly justified.

The Danish representative had auggested that the Secretary-General should decide whether or not to include court decisions in the Yearbook; the Commission itself should make that decision.

Mr. GARCIA-RAUER (Guatemala) asked that a separate vote be taken on the preamble to the draft resolution submitted by the Ukrainian SSR.

The preamble to the Ukrainian SSR draft resolution was adopted by 14 votes to none, with 1 abstention.

Mr. GARCIA-BAUER (Guatemala) asked that a vote by roll-call be taken on paragraph 1 of the operative part of the draft resolution submitted by the Ukrainian SSR.

A vote was taken by roll-call.

In favour: Belgium, Chile, Iran, United Kingdom, Ukrainian

Soviet Socialist Republic, Union of Soviet

Socialist Republics

Against: Denmark, France, Guatemala, India, Lebanon,

Philippines, United States of America, Uruguay

Abstaining: Egypt

Paragraph 1 of the operative part of the Ukrainian SSR draft resolution was adopted by 8 votes to 6, with 1 abstention.

A vote was taken on paragraph 2.

ParaGraph 2 was rejected by 9 votes to 4, with 2 abstentions.

Mr. CASSIN (France) said that almost all French laws were applied in the Trust Territories under French administration and would, therefore, have to appear in the Yearbook, should paragraph 3 of the draft resolution be adopted.

Mr. INGLES (Philippines) said that it would be oversimplifying the matter to say that all laws on human rights applied
in the metropolitan country were to be found in the legislation of
the non-self-governing territories. In certain territories there
was not a single provision prohibiting compulsory labour. It would
be of interest to publish the laws applied to the Trust Territories
only in so far as they differed from those in force in the
metropolitan territory.

Mr. CASSIN (France) explained that the law of 11 April 1946 prohibited forced or compulsory labour in any form, in Madagascar or elsewhere.

Mr. IEBEAU (Belgium) asked the representative of the Ukrainian SSR whether he would agree to amend his draft so as to bring it into line with the Economic and Social Council's resolution, namely, that only provisions of a constitutional order be published and not all legislative provisions. Paragraph 3 of the Ukrainian SSR proposal, as it was now worded, was unacceptable, but he would accept a less restricted form of words.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) said that he could not accept the Belgian representative's verbal proposal.

Mr. INGLES (Philippines) asked that a vote by roll-call be taken on paragraph 3 of the draft resolution submitted by the Ukrainian SSR.

A vote was taken by roll-call.

In favour: Egypt, Guatemala, India, Iran, Lebanon,

Philippines, Ukrainian Soviet Socialist Republic,

Union of Soviet Socialist Republics, Uruguay.

Against: Belgium, Chile, Denmark, France, United States

of America.

Abstaining: United Kingdom

Paragraph 3 of the draft resolution submitted by the Ukrainian SSR was adopted by 9 votes to 5, with 1 abstention.

Miss BOWIE (United Kingdom) explained that she had abstained from voting as she did not approve the wording of paragraph 3.

At the request of Mr. PAVLOV (Ukrainian Soviet Socialist Republic) a vote was taken on the French amendment to the first paragraph of the Guatemalan draft resolution.

The French amendment was adopted by 10 votes to 4, with 1 abstention.

Mr. SAGUFS (Uruguay) suggested stating that the Yearbook on Human Rights should be published in Spanish "as from 1949".

Mr. GARCIA BAUER (Guatemala) accepted that suggestion.

Paragraph 1 of the draft resolution submitted by Guatemala, as amended by France and Uruguay, was adopted by 9 votes to 5, with 1 abstention.

A vote was taken on paragraph 2.

Paragraph 2 was adopted by 10 votes to 1, with 4 abstentions.

A vote was taken on paragraph 3.

Paragraph 3 was adopted by 10 votes to 4, with 1 abstention.

A vote was taken on the Guatemalan draft resolution as a whole.

The Guatemalan draft resolution as a whole was adopted by 10 votes to 3, with 2 abstentions.

QUESTION RAISED BY THE REPRESENTATIVE OF THE USSR CONCERNING THE SENTENCING TO DEATH IN GRETCE OF TEN MEMBERS OF THE SEAMEN'S UNION (discussion continued)

Mr. FELLER (Legal Department) recalled that the first question upon which he had been asked to give his opinion dealt with the circumstances in which Mr. Evatt, President of the General Assembly, had during the first part of the third session of the General Assembly sent a communication to the Greek Government. On 7 November 1948, Mr. Evatt had despatched two identical communications, one to the King of Greece and the other to the Prime Minister of the Greek Government. Mr. Feller read the second communication.

There was no need to dwell at length on the circumstances in which those communications had been sent. The Greek question had been included in the General Assembly agenda; it had been referred to the First Committee, where the question of the imminent execution of the ten trade union leaders had been raised. It would also be remembered that at that time the President of the General Assembly had instituted certain negotiations to reconcile the differences which separated Greece from its northern neighbours, and the two telegrams in question had been despatched while that matter was being considered.

The second question put to him was what authority the Commission on Human Rights had, or might have, to decide to transmit to the Greek Government a communication on the imminent execution of certain Greek trade union leaders, or to ask the Chairman of the Commission or the Secretary-General to despatch such a communication. Commission's authority was defined in the terms of reference conferred upon it by the Economic and Social Council. Mr. Feller quoted the beginning of the Council's resolution which contained those terms of reference. The only provision in that text under which the Commission could take the decision suggested, was contained in raragraph 2, sub-paragraph (e). In that connexion, it should be remembered that the Commission had authority to submit to the Economic and Social Council only proposals, recommendations and reports on the various questions envisaged in its terms of reference. There were no provisions in the Commission's terms of reference authorizing it to communicate directly with a Government or to recommend to its Chairman or to the Secretary-General that a specific question should be presented directly to a Government.

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Furthermore the Commission's terms of reference should be considered in conjunction with the Economic and Social Council resolution 75 (V) on Communications Concerning Human Rights.

In the circumstances, he thought that the Commission was not authorized to adopt a resolution to transmit to a Government a communication such as the one suggested, or to adopt a resolution inviting its Chalrman or the Secretary-General to do so.

In conclusion, he said he had no comments to make on a decision which the Commission's Chairman or the Secretary-General might personally take on that matter.

Mr. PAVLOV (Union of Soviet Socialist Republics) did not think that any of the Commission's terms of reference to which Mr. Feller had referred, forbade its Chairman or the Secretary-General to despatch a telegram asking for mercy to be shown towards the ten persons condemned to death. The Commission had asked the Secretary-General to send to each Government a copy of the draft Covenant of Human Rights; that constituted a precedent, and in the circumstances Mr. Pavlov failed to see why the Commission could not take the decision he had suggested in an infinitely more serious mat er.

He wondered whether. In view of the existing situation in Greece, it would not be useful and valuable to follow Mr. Evatt's example. There was no intention of opposing a legal decision or of questioning the validity of Greek laws, but merely of making a plea for mercy.

The peoples of the USSR were following with the greatest attention the Greek recople's efforts to gai independence. The question was not only a legal one; it was essentially a moral one.

The CHAIRMAN reminded the USSR representative of the agenda. The question raised by him was not on the Commission's agenda, and as Mr. Feller had reminded the Commission it had the right to act only through the Council. The invitation to the Secretary-General to arrange for the distribution of the draft Covenant of Human Rights had nothing in common with the problem raised by Mr. Pavlov. She did not think the Commission could, on its own authority, send such a communication to the Greek Government, or request the Secretary-General to do so.

Mr. LEBEAU (Belgium) agreed with the representative of the USSR that the Secretary-General or the Chairman had a right to send, in their personal capacity, such communications as they might deem appropriate. But under its terms of reference the Commission was not entitled to make such recommendations. Its functions were purely advisory; its terms of reference were limited and gave it no power whatever to adopt a resolution calling upon the Chairman or the Secretary-General to make such a recommendation.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) noted that the Commission was refusing to act on the USER representative's suggestion to perform a humane act by asking for clemency for the ten Greek trade unionists condemned to death. The Commission would thus become responsible for the fate of the condemned men. Since Mr. Evatt had, in similar circumstances and in his capacity as President of the General Assembly, sent a telegram, he did not see why the Chairman of the Commission or the Secretary-General could not do likewise.

the Commission was actually unable to take a humanitarian decision. Its inability to do so was due to the fact that in 1946, when it had been instructed to prepare a draft of its terms of reference, it had formally asked the Council to permit it, pending the subsequent establishment of other bodies to act in that capacity, to ensure the effective protection of human rights in individual cases.

The Council had refused to accede to that request, so that the Commission had had no such powers since 1 January 1947.

The case brought up by the representative of the USSR was a tragic proof that those who had wished to give the Commission more extensive powers had been in the right. He hoped that the lesson would not be in vain, and that the Commission would in future be given the broader powers and functions which it did not yet enjoy, and which the public should know it did not enjoy.

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS (discussion continued)
Article 15 (E/CN.4/253).

The CHAIRMAN, speaking as United States representative, said that the text proposed by the Drafting Committee was not clear, and that if the provision it contained applied to all human rights it should not be inserted in the Covenant, as it was too vague. She accepted the Philippines' proposal, but would prefer the word "everywhere" to be deleted.

Mr. INGLES (Philippines) accepted the Chairman's suggestion.

Mr. MALIK (Lebanon) wished the word "everywhere" to be retained.

Mr. CASSIN (France) agreed with the Lebanese representative.

Article 6 of the Declaration of Human Rights could be recast and simplified, but he did not think that the word "everywhere" could be deleted. The purpose of article 6 was to abolish slavery completely, as slaves had not the legal personality which all persons should possess, particularly when they went outside the frontiers of their own country.

The CHAIRMAN speaking as United States representative, withdrew her proposal.

Mr. PAVLOV (Union of Soviet Socialist Republics) said that there were considerable discrepancies between the English and French text of article 6 of the Declaration of Human Rights and asked that the French text, which he thought the better, should be the only one to be considered.

The CHAIRMAN pointed out that the Philippine proposal (E/CN.4/232) was an exact translation of the French version of article 6.

The form of words proposed by the Philippines for article 6 was adopted by 13 votes to none.

The meeting rose at 5.45 p.m.