

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



GENERAL

E/CN.4/SR.207
2 May 1951

ENGLISH

ORIGINAL: ENGLISH and FRENCH

Dual Distribution

COMMISSION ON HUMAN RIGHTS

Seventh Session

SUMMARY RECORD OF THE TWO HUNDRED AND SEVENTH MEETING

held at the Palais des Nations, Geneva
on Thursday, 19 April 1951, at 10.30 a.m.

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Present:

Chairman

Mr. MALIK (Lebanon)

Members:

Australia

Chile

China

Denmark

Egypt

France

Greece

Guatemala

India

Pakistan

Sweden

Ukrainian Soviet Socialist Republic

Union of Soviet Socialist Republics

United Kingdom of Great Britain
and Northern Ireland

United States of America

Uruguay

Yugoslavia

Mr. WHITLAM

Mr. VALENZUELA

Mr. YU

Mr. SØRENSEN

AZMI Bey

Mr. CASSIN

Mr. EUSTATHIADES

Mr. DUPONT-WILLEMIN

Mrs. MEHTA

Mr. WAHEED

Mrs. RÖSSEL

Mr. KOVALENKO

Mr. MOROSOV

Miss BOWIE

Mrs. ROOSEVELT

Mr. CIASULLO

Mr. JEVREMOVIĆ

Representatives of specialized agencies:

International Labour Organisation

Mr. JENKS

Mr. de GIVRY

United Nations Educational,
Scientific and Cultural Organization

Mr. SABA

World Health Organization

Mr. BERTRAND

Representatives of non-governmental organizations:

Category A

International Confederation of Free Trade Unions	Miss SENDER
International Federation of Christian Trade Unions	Mr. EGGERMANN

Category B and Register

Caritas Internationalis	Abbé HAAS
Catholic International Union for Social Service	Miss de ROMER
Commission of the Churches on International Affairs	Mr. NOLDE
Consultative Council of Jewish Organizations	Mr. MOSKOWITZ
Co-ordinating Board of Jewish Organizations	Mr. BERNSTEIN Mr. MOWSHOWITCH
International Alliance of Women	Miss GINSBERG
International Council of Women	Miss van EEGHEN
International Federation of University Women	Miss ROBB Mrs. FIECHTER
International League for the Rights of Man	Mr. de MADAY
International Union for Child Welfare	Mrs. SMALL
International Union of Catholic Women's Leagues	Miss ARCHINARD
Pax Romana	Mr. HABICHT
Women's International League for Peace and Freedom	Miss BAER
World Jewish Congress	Mr. BIENENFELD Mr. RIEGNER
World Union for Progressive Judaism	Mr. LOYDA

Secretariat

Mr. Humphrey	Representing the Secretary-General
Mr. Schreiber	Secretariat
Mr. Das	Secretary to the Commission

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION
(item 3 of the agenda):

- (b) Inclusion in the Draft International Covenant of provisions concerning economic, social and cultural rights (continued)

(E/1681, Annex III and E/CN.4/353/Add.3 pages 9-10, E/CN.4/364 and Corr. 1, 2 and 3 and Add. 1, 2 and 3, E/CN.4/513, E/CN.4/515 and Add. 1-17, E/CN.4/525, E/CN.4/527, E/CN.4/529, E/CN.4/530, E/CN.4/534, E/CN.4/537, E/CN.4/538/Rev.1, E/CN.4/539, E/CN.4/541, E/CN.4/542, E/CN.4/543, E/CN.4/544, E/CN.4/545).

The CHAIRMAN invited the Commission to continue its examination of item 3 (b) of the agenda, and drew attention to the additional documentation circulated since the previous meeting, namely, the proposal of the Australian delegation (E/CN.4/543), the suggestions submitted by the Director-General of the World Health Organization (E/CN.4/544) and the French draft resolution (E/CN.4/545).

Mr. CASSIN (France) said that his proposal was certainly not designed to close the general discussion on item 3 (b) of the agenda. Its purpose was merely to determine what procedure should be followed once the general discussion had been completed. It was thus in keeping with the instructions given to the Commission by the General Assembly and the Economic and Social Council.

It would be useful if the members of the Commission could have a perfectly free and frank exchange of views with the representatives of the specialized agencies. That was why he had suggested that the proposed working party should meet in private, which would enable the representatives of the specialized agencies to participate on an equal footing with the members of the Commission. The working party could in any event decide at any time to make its meetings public.

The working party envisaged in the French proposal would not necessarily meet immediately after that proposal had been adopted. Some of the specialized agencies might wish to send experts who were not in Geneva at the moment. Hence, if the French proposal were adopted, the Commission might defer further examination of item 3 (b) and take up item 3 (c) of the agenda.

Mr. BERTRAND (World Health Organization), speaking at the invitation of the CHAIRMAN, apologised for the fact that the Assistant Director-General of the World Health Organization had been prevented by official business from attending the meeting. The World Health Organization considered that it would be sufficient to include in the Covenant a simple affirmation of the right of every human being to health. Such a general affirmation would have for its complement the Constitution of the World Health Organization, which pledged the great majority of the countries of the world to co-operate in carrying out the mission assigned to that body.

The terms of that mission were specifically stated in the preamble to the Constitution, and in Article 2 thereof, which listed the functions of the Organization, and in doing so laid down a vast programme of work in the field of health on a world-wide scale. It would be futile to hope to see that programme carried out unless governments had already undertaken, in signing the Constitution, to work in collaboration with the World Health Organization for its implementation.

The discussion which had so far taken place in the Commission indicated, however, that the latter might wish to expand that affirmation by including in the Covenant a list of the specific rights which might be covered by the right to health in general. It was in that sphere that the World Health Organization, as a body with specialized field experience, could come forward with technical advice.

In anticipation of that wish, and of any decisions the Commission might take in that direction, the Director-General of the World Health Organization had ventured to put forward a few ideas which took up in substance the obligations already assumed by governments when they had ratified the Organization's Constitution.

Mr. VALENZUELA (Chile) wished to ask the French representative for some elucidation of his draft resolution. The Chilean delegation had always opposed the holding of private sessions, except when the need for them was patent. It found it difficult to understand why the Commission, which had successfully considered the question of civil rights in public, should have to

meet in private to study economic, social and cultural rights. That did not seem very consequential. Although it was true that both the General Assembly and the Economic and Social Council had called upon the Commission to set up working groups if necessary, the fact nevertheless remained that the members of the Commission were appointed by a special procedure, so that their personal status was somewhat different from that of government representatives on purely political bodies.

He did not quite understand why the Commission should set up a working party of a new type in which the representatives of the specialized agencies would sit on a completely equal footing with the members of the Commission. The procedure for collaboration between the Commission and the specialized agencies hitherto followed seemed to have given excellent results; why then change it? Moreover, he did not see why there should be any discrimination between the specialized agencies and the non-governmental organizations, such as appeared to be implicit in the French proposal. Under rules 35 and 36 of the rules of procedure of the functional commissions of the Economic and Social Council, the Commission was entitled to hold private meetings and set up working parties if it deemed necessary. He would, however, like to ask the representative of the Legal Department of the Secretariat whether there was any difference between the working parties for which provision was made in the rules of procedure and that proposed by the French representative.

In a word, while not opposing the procedure proposed in the draft resolution, he would prefer, so far as possible, to avoid private meetings, and thereby creating precedents which might be cited in other circumstances and for different ends, and, especially, to avoid excluding trade union representatives from the Commission's consideration of economic and social rights.

Mr. SÖRENSEN (Denmark) did not intend to speak on the procedural question of whether the Commission should transform itself into a working party, but wished to reply in general terms to certain points of substance which had been raised at the previous meeting, in connexion with his proposal. In drafting his text, he had been greatly assisted by the views expressed by members of the Commission and representatives of the specialized agencies. However, he took full responsibility for it, although he claimed no credit for any merits it might possess.

It had been argued that a number of important rights had not been mentioned in the Danish text. The Yugoslav representative, for instance, had specifically referred to the rights of mothers. Some omissions were perhaps more apparent than real. At all events, the text laid no claim to being exhaustive, and he was perfectly prepared to consider with an open mind any suggestion for expanding it.

The Soviet Union representative had alleged that the text contained a clause of a discriminatory character. He wished to assure that representative that he had intended that the Danish proposals should form an integral part of the draft Covenant, so that they would be covered by the provisions of article 1 thereof; he had no desire to leave loopholes for discrimination in the application of the provisions he had suggested. True, article 1 might require subsequent revision, but in principle he believed it was desirable that it should be framed in as general a manner as possible, so as to make it applicable to the major part of the draft Covenant. That, however, was a question which would probably have to be considered in greater detail at a later stage.

The Danish text had also been criticized for failing to mention trade union rights. That omission should be considered in the light of the provisions of article 16 of the draft Covenant, which dealt with the right of association. As paragraph 3 of that article implicitly recognized the freedom to set up trade unions, he had not thought it necessary to make any additional provision on that score in his text. The whole question of the function of trade unions raised considerable difficulties, since their rôle was conceived differently, in different countries. He agreed with the United Kingdom representative that they

should play an important part in the economic life of the country, and that collective bargaining was one of their most important activities. But in view of the differing conceptions he had mentioned, it was extremely hard to devise a general formula wide enough to be applicable to all the various economic and political systems.

Representatives had also suggested that specific mention should be made of the right to equal pay. That was a matter which, in some countries, was left to negotiation by the trade unions. If governments bound themselves to ensure such a right, they would be forced to interfere in what some of them considered to be a strictly trade union field. So far as the trade unions in his own country were concerned, he could say that at the present time, they would regard such a development as unwarranted interference on the part of the State. He was fully aware that some governments might have other views on the question, but had mentioned it to illustrate the kind of difficulty involved.

The right to strike was also integrally bound up with the status of trade unions. It was recognized in many countries, among them Denmark. The Danish Government, however, sometimes found it necessary to place some limitation on that right. For instance, it had recently taken action to prevent strikes in the export industries, and in 1950, the Danish Parliament had adopted a resolution recommending that disputes between employers and workers in the printing trade should not be allowed to interfere with the publication of newspapers and other material likely seriously to curtail freedom of expression. Thus, the right to strike was a good deal more complicated than might at first appear from the simple form in which it was sometimes stated. But, if the Commission found it possible to devise adequate provisions relating to such matters, he would be ready to consider them.

Passing to the observations concerning the legal implications of his text, he recalled the Soviet Union representative's charge that it entailed no precise commitment on the part of governments, but was merely an expression of pious hopes; indeed, the Soviet Union representative had implied that the text was not worth considering. It might perhaps be pointed out that if any government

was particularly anxious to assume definite commitments in connexion with social and economic rights, it could easily do so by adhering to a number of international instruments which still remained unratified by many States. He was specially thinking of the numerous conventions of the International Labour Organisation, many of which had been signed by only a few governments. The governmental record in that respect was far from impressive.

It should be remembered that, although an effort was being made to embody in the draft Covenant certain general principles relating to a variety of rights, it was beyond the bounds of possibility to include in a single instrument adequate provisions of a detailed character. As the representative of the International Labour Organisation had pointed out at the previous meeting, many of its conventions, which, it must be remembered, dealt with matters of much narrower scope than the issues treated in the draft Covenant, had themselves proved inadequate, and had had to be supplemented by more precise arrangements. It must be recognized that the vast and general problem of the protection of human rights would have to be approached in stages. The Universal Declaration of Human Rights had been the starting point in the enunciation of general principles. Thence, a series of steps would be necessary before specific measures determining the fate of individuals could be taken. He was convinced, and confirmed in that conviction by the International Labour Organisation's experience over the past thirty years, that no short cuts were possible. The Commission should not be over-ambitious; it could not hope to draft a covenant which would deal in detail with the whole gamut of human rights.

His text represented an attempt to go beyond the stage of the formulation of abstract principles, and to commit governments to a certain line of policy. He believed that it would enable a constructive start to be made.

Another criticism which had been made was that economic, social and cultural rights had not been treated in his text as the birthright of the individual, but had been expressed in terms of duties to be undertaken by States. That was a point which had frequently been discussed in the Commission in the past, and which, perhaps, reflected differences of attitude to the concept of civil liberties.

Traditional civil liberties, such as those covered by articles 3 - 8 of the draft Covenant, were conceived by his Government, and by certain others, in terms of freedom from State interference. It had long been recognized that individuals were entitled to certain rights, such as those to freedom of association, of expression, of thought and conscience, and to protection against arbitrary arrest. The obligations of governments in that respect being passive rather than active, their duty was to interfere as little as possible with the liberty of the citizen. Perhaps the Soviet Union representative took a different view, and considered that it was the duty of States to take positive action to ensure civil liberties. If so, there were basic divergencies of opinion within the Commission, which it would be extremely difficult to reconcile.

The relation between obligations and rights in the case of economic, social and cultural rights was quite different, since those rights could not be assured if the State remained passive. They called for positive governmental action like that, for example, required to achieve full employment. That was why, taking the Universal Declaration as a starting point, the next step would have to be the proclamation of the duties of governments in certain fields, so that the rights proclaimed in the Universal Declaration could be realized through action by the State.

The Soviet Union representative had suggested that it would be futile to write into the draft Covenant a clause proclaiming that everyone had the right to work without indicating how that right was to be ensured, and have quoted Article 118 of the Constitution of the Union of Soviet Socialist Republics. That Article, after proclaiming the right of citizens to work, went on : "The right to work is ensured by the socialist organization of the national economy,". The difficulty was that opinions differed widely as to how the right to work could be ensured. Not all governments were partisans of the socialist solution, and it was essential to recognize that each must be free to select the policy appropriate to its own national requirements and conditions.

The problem before the Commission was how to carry out the definite instructions of General Assembly resolution 421 (V) that it should draft additional provisions concerning certain specific rights for inclusion in the

draft Covenant. It would clearly be undesirable merely to transpose the relevant sections from the Universal Declaration to the draft Covenant, for to do so would weaken the authority of the former, and lead to unwarranted conclusions about the significance of those of its provisions which were not reiterated in the latter. If a majority in the Commission felt it necessary to refer in the draft Covenant to the rights of individuals, he would not object to inserting references to specific articles of the Universal Declaration in the clauses relating to economic, social and cultural rights, or to enumerating the obligations to be assumed by States to give effect to those general principles, but it would not be practicable to transform the general principles themselves into legally binding provisions.

In conclusion, he could not accept the Soviet Union representative's suggestion that the Danish Government, as represented by himself (Mr. Sørensen), was not interested in the promotion of economic, social and cultural rights. Its past record was sufficient to dispose of that contention. The implied accusation of bad faith also was unfounded. Each member of the Commission was naturally more interested than others in the inclusion of certain types of provisions in the draft Convention. Such differences of emphasis should be treated with respect, and in a spirit of true understanding. Agreement could only be reached through mutual candour.

Mrs. ROOSEVELT (United States of America) supported the French proposal (E/CN.5/545). An informal exchange of views between members of the Commission and expert representatives of the specialized agencies should, she thought, prove fruitful, but would not be easy to obtain at a public meeting. She did not expect the discussions in the working group to last very long.

Mr. CIASULLO (Uruguay) pointed out to the Danish representative that, as a result of the progress made since the eighteenth century, the philosophic and legal conception of human rights characteristic of that period was now out of date.

He unreservedly supported the French proposal. He would remind the Chilean representative that United Nations bodies frequently held private meeting

when they wished their discussions to be less formal. That practice had often made it possible for them to reach more quickly results which they would only have achieved with difficulty in public meetings. Moreover, the French proposal left the Commission completely free to decide what specialized agencies should be represented in the working party. The list given in that proposal was certainly not exhaustive, since it was preceded by the words "in particular." The Chilean representative had also urged that workers' representatives should take part in the meetings of the working party; but the workers would, in any event, be represented through the International Labour Organisation, whose participation in the working party was specifically provided for in the French proposal. Further, there was nothing to prevent the Commission from deciding that representatives of other specialized agencies, or even of non-governmental organizations should also take part in the work.

Mr. DUPONT-WILLEMEN (Guatemala) preferred the Danish proposal. He thought it better to advance slowly in the hope of advancing surely. There was surely no point in preparing a draft Covenant which would have only a small chance of ratification. That had been too often the case with the conventions negotiated by the International Labour Organisation: out of some ninety-seven such conventions, only about ten had been duly ratified.

He asked that a special place should be reserved in the Covenant for trade union rights, as distinct from the right of association already provided for. Trade union rights went further than that and, in particular, laid obligations on employers.

With regard to the French proposal, he was personally opposed to private meetings, though he recognised that they might make it possible to speed up the Commission's work. He asked, however, that, should the procedure proposed by the French delegation be adopted, the Commission should authorize representatives of non-governmental organizations, in particular trade union organizations, also to take part in the working party's meetings.

Mr. SCHNEIDER (Secretariat), replying to the legal points raised by the Chilean representative, observed that the intention of the French draft resolution was that, in accordance with rule 20 of the rules of procedure, the Commission should consider setting up a working party, in which all delegations on the Commission would be represented. Rule 22 laid down that the rules of procedure of the functional commissions of the Economic and Social Council should apply to the proceedings of committees, in so far as they were applicable. Rule 73 made the position of the specialized agencies clear and, even had no such provision existed, General Assembly resolution 421 (V) would have covered the point. The rights of non-governmental organizations were set forth in rules 74 and 75. If the Commission, or any working parties set up, decided to hold private meetings, the Commission or the working party concerned could decide whether representatives of non-governmental organizations should be invited to participate in its work, or in certain aspects of it, and on what conditions.

Mrs. RÖSSEL (Sweden), commenting on the Danish representative's statement, remarked that in many countries trade unions enjoyed a very strong bargaining position, and that, in Sweden at least, the State did not interfere in bargaining on wages and other matters. It should not be forgotten, however, that the State was the employer of a very important class of worker, the civil servant; nor should the position adopted by the State in its capacity as employer be overlooked. It had not yet been decided whether the part of the draft Covenant dealing with economic, social and cultural rights was to be general or detailed in nature. But if it were to be detailed, mention should be made of the State's responsibility for ensuring equal pay for men and women, at least in the case of its own employees. By so doing, the State would be setting an example to other groups of employers.

Mrs. MENTA (India) felt, after a careful study of the various drafts under consideration, that by working hard the Commission might find it possible to embody the various suggestions in one text.

There was no such thing as an absolute right; even the right to life was limited, because in certain circumstances the taking of life was justified. Economic, social and cultural rights were even more conditional; they were conditional both on the resources of the State, and on other factors over which the State might have no control. It would therefore be difficult to arrive at a standard acceptable to all States; but the Commission should consider all the various rights together with their limitations. The Danish text could be taken as a basis for discussion. Rights, for example, that of everyone to work and to equitable working conditions, should first be defined. The State should then be obliged to promote the exercise of those rights with all the resources at its disposal. The best method would be to adopt the French proposal, and then to consider which rights were to be included in the draft Covenant. There was little point in going into too great detail and thus creating considerable difficulties; agreement could more readily be reached on general principles.

The CHAIRMAN announced that the Chilean delegation had submitted an amendment to the French draft resolution, and that the text would be distributed shortly.

Mr. MOROSOV (Union of Soviet Socialist Republics) said that, as he understood the French representative, the main aim in setting up a working party was to secure the co-operation of representatives of the specialized agencies on a basis of parity with representatives on the Commission. It was in that sense that he interpreted the somewhat unusual proposal that the entire Commission itself should be transformed into a working party. He called the proposal "unusual" because there was, to his knowledge, no precedent for such a transformation. In the past, working parties had been set up as subsidiary bodies in accordance with the rules of procedure.

The representative of the Secretariat had unfortunately not answered the Chilean representative's question whether, when the working party started its work, there would be any legal justification for granting representatives of the specialized agencies rights identical with those of members of the Commission. There was in his opinion no legal justification whatsoever for doing so. That did not mean that he objected to co-operation; the important point was that the members of the Commission were not acting as private individuals, but as members of a functional commission of the Economic and Social Council, whose deliberations were regulated by specific rules of procedure.

Even if a working party were set up in accordance with the French draft resolution, the representatives of the specialized agencies could not be granted rights in any way differing from those provided for in rule 73 of the rules of procedure. There was no doubt that the working party mentioned in the French proposal would constitute a subsidiary body under the terms of clause (1) of that rule. The participation of specialized agencies in the deliberations envisaged was governed by clause (2) of the same rule, and depended on a "request of any member of the commission or of the subsidiary body concerned".

Again, as laid down in rule 77, amendments to the rules of procedure could be made only by the Economic and Social Council. Consequently, even if the French draft resolution were adopted, there could be no question of granting identical rights to representatives of the specialized agencies in the work of the subsidiary body; to act otherwise would be to commit a breach of the rules of procedure and of the provisions determining the relationship between representatives of Governments and those of the specialized agencies, as set forth in the relevant agreements.

The main purpose of the French proposal was to modify the relationship between representatives of specialized agencies and representatives of Governments assembled in the Commission. If, as he had indicated, there was no possibility of putting the rights of those two groups of representatives on an equal footing, the main reason for transforming the Commission into a working

party disappeared. The Commission should continue to meet as at present constituted and consider the various proposals tabled, together with whatever amendments that might be submitted. It could also take into account whatever advice might be offered by representatives of the specialized agencies; indeed, the views of the specialized agencies could even be put to the vote if any representative on the Commission was prepared to sponsor them. He therefore supported those delegations which had opposed the suspension of the Commission's work and the establishment of subsidiary groups.

The French representative had attempted to demonstrate that the representatives of the specialized agencies would find it easier to submit proposals at private meetings, but had given no very precise explanations of why that should be so. However, no representative of any specialized agency had hitherto fought shy of the open discussion of views in public meeting. When political rights had been considered by the Commission, there had been no request for private meetings. It was, therefore, all the more deplorable that closed meetings should be contemplated when proposals on economic, social and cultural rights were being studied. He strongly objected to the holding of closed meetings on that subject.

The final paragraph of the French draft resolution was a further attempt to disrupt the logical course of the Commission's proceedings. After almost four days of inconclusive debate, the Commission was being invited to pass to the next item on its agenda. He referred the Commission, to his observations in that connexion, when a similar proposal had been made at the 204th meeting.* In his opinion, there was no reason to depart from the normal working procedure. After completing the general discussion, the Commission should pass to the various specific proposals tabled. If further consideration of the item under discussion were to be deferred, as suggested by the French representative, the Commission would later have to revert to the general discussion, and would thus lose much time in going over the same ground again. His delegation would therefore vote against the French proposal.

* See document E/CN.4/SR.204, pages 11-13.

He did not for one moment suppose that the object of the French proposal was to make the Commission's work more difficult; the French representative was undoubtedly moved by the best intentions, but, objectively speaking, any attempt to draw a veil over the Commission's proceedings was unseemly, and any postponement such as that suggested in the final paragraph of the French draft resolution, would adversely affect the fulfilment of the Commission's task.

It was perhaps because he (Mr. Morosov) had failed to make himself clear enough, or because of over-simplification in the interpretation, that the Danish representative had remarked that the Soviet Union proposal was based on the contention that the State was not obliged to take specific steps to implement the rights in question. The contrary was the case. Two principles were embodied in the Soviet Union proposal; first, that individuals enjoyed certain specific rights; second, that those rights should be ensured by the State through the application of certain definite measures. Those principles were not stated in the Danish proposal, which merely suggested that each State should undertake to promote conditions for economic, social and cultural progress and development.

He strongly deprecated the Danish representative's assertion that the Soviet Union's understanding of civil liberties was at utter variance with the understanding current in western Europe since the eighteenth century. The Constitution of the Soviet Union not only proclaimed a number of rights missing from similar western European instruments, but also provided for specific means of implementing the rights mentioned in it. Among such rights could be mentioned the freedoms of speech, of the Press, of association and of street processions and demonstrations. Article 127 of the Soviet Union Constitution provided for the inviolability of the individual's personal liberty, no citizen being subject to arbitrary arrest without a valid warrant. Article 128 proclaimed the inviolability of the home and the privacy of personal correspondence. Those were examples of civil rights ensured by the Constitution of the Soviet Union and implemented continuously.

With regard to the final observation of the Danish representative, he stressed that he had been far from implying that the Danish Government was not entitled to participate fully in the discussion. Moreover, the Soviet Union delegation regarded the representatives of the governments of every sovereign State on the Commission as fully competent plenipotentiaries. In referring to the views of the Danish representative, he had wished to emphasize that that representative appeared to feel it unnecessary to include economic, social and cultural rights in the draft Covenant. The point on which he had expressed doubt was whether a representative who deemed it unnecessary to include such rights in the Covenant would be prepared to go far enough in carrying out the task assigned to the Commission by the General Assembly.

The CHAIRMAN explained that there was no question of granting the specialized agencies any rights not already provided for in the rules of procedure or in the agreements between those agencies and the United Nations. The specialized agencies were always entitled to take full part in the Commission's discussions; but they did not have the right to vote or to submit proposals, although proposals emanating from them could be sponsored by representatives on the Commission in their own name. The Commission could not, therefore, refuse to hear representatives of those agencies. It was empowered, in theory, to refuse to hear the representatives of non-governmental organizations, but in practice permission to speak had so far never been withheld.

The Commission was entirely free to decide whether to hold closed or public meetings. In that connexion he would recall that in the past the Commission had observed the practice of holding private meetings when discussing communications it had received regarding human rights, and that there had been a private hearing of one of the Assistant Secretaries-General in 1950.

Mr. EUSTATHIADES (Greece) thanked the Chairman for explaining the procedural issue with which the Commission was faced. Personally, he supported the idea behind the French proposal, although he was in complete agreement with the Soviet Union representative that the French representative had not in fact intended by his proposal in any way to contravene the provisions of rule 73 of the rules of procedure.

With regard to the legal basis for the French proposal, he considered, notwithstanding the statement of the representative of the Secretariat that it did not rest on rule 20, but on rules 35, 36 and 73 of the rules of procedure; it was on that understanding that he would vote in favour of the first paragraph. On the other hand, he reserved his position with regard to the second paragraph.

He believed that in the last analysis all members, whether they supported or opposed the French proposal, were moved by the same spirit and were trying to achieve the same end. But there would be some value in the Commission forming itself into a working party and meeting in private. Such a procedure would enable certain delegations, especially when technical questions were being examined, to make concessions more easily, so that agreement would be reached more rapidly. Moreover, the procedure contemplated was in harmony with the invitation transmitted to the Commission by the Economic and Social Council.

Mr. JENKS (International Labour Organisation), speaking at the invitation of the CHAIRMAN, stated that the Governing Body of the International Labour Office was anxious to give the Commission its fullest co-operation, and to that end had appointed a special delegation. He personally, acting provisionally on behalf of and after full consultation with that delegation, was most desirous of avoiding any misunderstanding which might possibly prejudice such co-operation.

He therefore welcomed the French proposal in the light of the explanations given by the French and United States representatives. He took the proposal to mean that a frank, full and intimate exchange of views would be held informally on a basis of equality between the Government representatives on the Commission and the representatives of the International Labour Organisation. That would appear to mean that the entire Commission would be represented on the working party, where it would meet with representatives of the specialized agencies concerned, including the International Labour Organisation; and at that stage no question of voting or of taking decisions would arise. The proposal in short, provided for an ad hoc arrangement to deal with an unprecedented situation.

He would not have ventured to participate in the discussion had it not been suggested that the Commission's rules of procedure were automatically applicable

to such meetings, and that decisions on the working party's procedure would be taken unilaterally by the Commission. The Commission was fully sovereign to decide on its own procedure, but the International Labour Organisation, an entirely independent body, was equally sovereign in respect of the terms on which it felt that it could offer to co-operate with the Commission. He felt that the arrangements outlined by the French and United States representatives should be followed, and that all procedural details should be looked upon essentially as matters to be settled by arrangement between the two parties concerned. If those arrangements were acceptable to the Commission, the delegation of the Governing Body would be pleased to co-operate fully; the Governing Body felt that only in such a way could its representatives appropriately meet with the Government representatives on the Commission with the object of making a real contribution towards the general settlement of a matter which rested primarily within the province of the International Labour Organisation.

He felt that those observations were necessary to create a healthy understanding between the United Nations and the International Labour Organisation, and between the Commission and the Governing Body. The offer of co-operation extended by his organization would stand, so long as a full and frank discussion was possible on a basis of equality.

The CHAIRMAN replied that the Commission hoped for extremely productive co-operation with the International Labour Organisation. Moreover, the Economic and Social Council had called upon the Commission to take such steps as were necessary to secure the fullest possible collaboration from the specialized agencies. On the other hand, he did not fully understand what the representative of the International Labour Organisation implied by "a basis of equality"; the Commission could not break its own rules of procedure, which were automatically applicable to its subsidiary bodies, a fact which was at variance with one observation made by the International Labour Office representative. Nor was the International Labour Office representative's statement that the questions of voting and of taking decisions would not arise in the proposed working party clear to him. While seeking and welcoming the fullest possible co-operation with specialized agencies, the Commission could not forget that it was a functional organ of the Economic and Social Council, and that it was obliged to abide by its rules of procedure which had been unanimously approved by the General Assembly.

The genesis and history of the drafting of the Covenant by the Commission, acting in accordance with the directives of the Economic and Social Council, was a separate matter which should not be confused with the understandably deep interest which the International Labour Organisation took in the subject.

Mr. CASSIN (France) desired once again to make it clear that his proposal was in no way designed to put an end to the discussion on the substance of item 3(b) of the agenda.

It had frequently occurred in the past that a Commission had entrusted a particular task to certain of its members. Subsidiary bodies thus set up were entirely free to avail themselves of expert opinion on the question they were considering, and they generally worked in private. The Commission would recall the difficulties it had encountered in 1948 when considering article 22 of the Universal Declaration, difficulties so serious that they had seemed to portend the utter failure of the Commission's work. The Commission had then set up a working party which had met in private and had succeeded in drafting a text of Article 22 on which agreement had been reached. However, that working party had not entirely disposed of the question, since the Commission itself had spent three days considering its report in public session. In his opinion, therefore, the proposal he had made was in accordance both with precedent and with the rules of procedure.

His purpose in proposing that the working party should consist of all the members of the Commission was to enable all delegations to take part in its discussions. As to the question of admitting representatives of trade union organizations and of specialized agencies other than those explicitly mentioned in the French draft resolution, he saw no objection whatever to that, and was prepared to support any amendment to that effect.

In his opinion, rule 73 of the rules of procedure undoubtedly authorized the representatives of the specialized agencies to take part in the Commission's work on an equal footing. Such an idea was implicit in the words "to participate"

used in clause (2) of that Rule. The question of voting rights was quite a different matter, however, and it was quite clear that only members of the Commission could exercise them.

The representative of the International Labour Organisation had referred to the need for an agreement. Such an agreement could be made after the adoption of the Covenant by the General Assembly, when it would become necessary to draw up for ratification by the United Nations and the specialized agencies concerned a legal instrument apportioning between those bodies the various duties and powers arising out of the decisions taken relating to implementation.

He thought, therefore, that his proposal could be said to depart neither from the traditions of the Commission nor from its rules of procedure. It offered the advantage of enabling members of the Commission and representatives of the specialized agencies to express their views frankly. Such discussion could take place in public, if all concerned so desired, but he felt that it would be more courteous to give the representatives of the specialized agencies the opportunity of first making their statements in private if they so wished.

So far as the substance of the question was concerned, he endorsed the Indian representative's view that real progress had been made during the last few meetings, and that there seemed to be no insuperable obstacle to final agreement. He would like to thank the Danish representative for having submitted a text broad enough in scope to allow the Commission to take it as its basic working paper.

Even on the most delicate points, a compromise solution did not appear to be out of the question. The Danish representative had, for instance, recognized that some addition might be made to his text for the article containing the general undertaking. He himself was of the same opinion, and thought that the provisions contained in the Yugoslav proposal might be used for that purpose. The text of the article in the Danish proposal was, in any case, analogous to that of article 22 of the Universal Declaration. In both cases, the clauses were drafted in terms sufficiently general to exclude the possibility of any unwitting omissions.

Some difference of opinion seemed to persist with regard to the specific undertakings; indeed, no provision was made for them in the United States draft. The Soviet Union proposal, on the other hand, consisted solely of such undertakings. He did not think it impossible to strike a balance between those two proposals. It should be possible to reach agreement on the specific rights and undertakings. The French Constitution contained useful indications in that connexion, which he would be pleased to explain to the Commission at the appropriate moment.

He would request the Soviet Union representative to appreciate the fact that the Commission was called upon to frame a text applicable not merely to a few countries at the same level of civilization, but to all nations. The Soviet Union delegation proposed, for example, that the Covenant should stipulate that social security and social insurance for workers should be provided at the expense of the State or of the employer. In certain countries, however, there were independent workers, such as doctors or artists, and care would therefore have to be taken, if it was desired to include in the Covenant the principle advocated in the Soviet Union draft, to adopt a text which would not rule out the operation of a comprehensive system of social security in the countries where there was not merely the State, on the one hand, and salaried workers and employees on the other to be considered. That was only one illustration of the need for the greatest measure of goodwill and cooperation on the part of all members of the Commission, in order that a text might be produced that would prove acceptable to all countries.

The Danish representative had referred to the possibility of asking the specialized agencies to submit annual reports on the observance of the rights for which they were respectively competent. He (Mr. Cassin) was in favour of that idea, which he had in fact put forward himself at the sixth session. But he emphasized that a provision of that kind should apply to all States, whether or not they had ratified the Covenant, for it was inadmissible that States which refused to accede to the Covenant should be allowed to pass

judgment on those who had accepted its obligations. A similar procedure was followed in the case of the International Labour Organisation's conventions.

The French delegation was anxious that the United Nations should make progress in the sphere of human rights, but would insist that such progress be achieved on a basis of equality and reciprocity. The same was true of supervisory measures: France would accept them, provided they were applied to all States equally.

In conclusion, he would collaborate wholeheartedly in the efforts of the members of the Commission to draft the necessary texts, and expressed his confidence in the success of its deliberations.

The meeting rose at 1 p.m.