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SUMMARY RECORD OF THE TWO HUNDRED AND THIRTY-THIRD MEETING

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Present:Chairman: Mr. WELIK (Lebanon)Members:

Australia	Mr. MITLAK
Chile	Mr. SANTA CRUZ
China	Mr. YU
Denmark	Mr. SØRENSEN
Egypt	AZHI Bey
France	Mr. CASSIN
Greece	Mr. EUSTATHIADES
Guatemala	Mr. DUPONT-WILLEMEN
India	Mrs. MENA
Pakistan	Mr. MAHEED
Sweden	Mrs. RUSSEL
Ukrainian Soviet Socialist Republic	Mr. KOVALENKO
Union of Soviet Socialist Republics	Mr. MARUSOV
United Kingdom of Great Britain and Northern Ireland	Mr. HOWARD
United States of America	Mrs. ROOSEVELT
Uruguay	Mr. CUSULLO
Yugoslavia	Mr. JEVRENOVIĆ

Representatives of specialized agencies:

International Labour Organisation	Mr. PICKFORD
United Nations Educational, Scientific and Cultural Organization	Mr. DIMITE
World Health Organization	Dr. DROLE

Representing the High Commissioner

Mr. WEIS

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Representatives of non-governmental organizations:Category A

International Confederation of Free Trade Unions	Miss SEIDER
International Federation of Christian Trade Unions	Mr. EGGEMANN

Category B and Register

Caritas Internationalis	Mr. PETERKIN
Carnegie Endowment for International Peace	Mrs. CARTER
Catholic International Union for Social Service	Miss de ROMER Mrs. SCHULDER
Consultative Council of Jewish Organizations	Mr. MOSKOWITZ
Co-ordinating Board of Jewish Organizations	Mr. WASSBURG
International Council of Women	Mrs. CARTER
International Federation of Business and Professional Women	Miss TOPLINSON
International Federation of University Women	Miss ROBB
International League for the Rights of Man	Mr. DILLMAN
International Union of Catholic Women's Leagues	Miss de ROMER Miss ARCHINARD
Liaison Committee of Women's International Organizations	Miss ROBB
Pax Romana	Mr. HJICHT
World Jewish Congress	Mr. EISENFELD Mr. RIEGNER
World Union for Progressive Judaism	Rabbi MESSINGER

Secretariat

Mr. Humphrey	Representing the Secretary-General
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 Covenant of provisions concerning economic, social and cultural rights:

General clause concerning economic, social and cultural rights. (E/CN.4/609/Rev.1, E/CN.4/612, E/CN.4/615, E/CN.4/616) (continued)

The CHAIRMAN invited the Commission to continue its discussion on the general clause relating to economic, social and cultural rights, and drew attention to the revised Yugoslav proposal (E/CN.4/609/Rev.1), to the joint amendment to the fourth paragraph of the French proposal (E/CN.4/612) submitted by the delegations of Chile, Egypt and Guatemala (E/CN.4/616), and to the French and United States joint amendment (E/CN.4/615) to the same paragraph of the French proposal.

AZMI Bey (Egypt) thought he was correct in stating that the Uruguayan delegation supported the joint amendment submitted by the Chilean, Egyptian and Guatemalan delegations.

Mr. CLASULLO (Uruguay) explained that his delegation had withdrawn its support for that amendment on learning that the Yugoslav delegation would not support it, and that when the time came he would ask for separate votes on its component parts.

There were many similarities between the three texts before the Commission. His delegation could support any one of them, subject to certain reservations, and provided that the more important phrases were voted on separately.

AZMI Bey (Egypt) said that the joint amendment submitted by the Chilean, Egyptian and Guatemalan delegations was designed to modify the last paragraph of the French proposal (E/CN.4/612) to some extent. For example, it substituted for the phrase "compte tenu de leur organisation", in the French text, the phrase "conformément à leur organisation", which appeared less severe. It omitted the words "and resources", which would dash the small countries' hope of obtaining international assistance. Out of respect for equality between

States, it substituted the word "par" for the words "à la" in the French text, since the latter might be interpreted by small States as somewhat offensive to their dignity. Lastly, the word "progressive" was preferred to the phrase "by stages", in order to stress that the implementation of the rights in question should be pursued without respite.

Mr. JEVREMOVIC (Yugoslavia), commenting on his delegation's revised proposal (E/CN.4/609/Rev.1), said that in his Government's opinion each State must ensure the enjoyment by its citizens of economic, social and cultural rights, except in circumstances where retarded economic development made that impossible. That obligation was wholly realistic, and any government which was truly determined to fulfil its international obligations must find it acceptable. But taking into account the apprehensions of those representatives who had referred to the difficulties that economically under-developed countries would run up against, his delegation had introduced into its revised proposal the phrase: "in accordance with the level of their economic development,..." The responsibilities of governments unable to ensure the full exercise of economic rights would thus be limited.

His delegation was unable to accept any of the other proposals before the Commission, since they tended to circumscribe the obligations of governments by a reference to the "organisation" of each individual State. The effect of such a clause would be to reduce the enjoyment of economic, social and cultural rights to vanishing point.

It was for the Commission to decide whether it was to defend human rights or systems of government. The answer was surely plain. National legislations and national structures would in no way be affected by the pledge which governments would be asked to give under the general clause. Governments were merely asked to respect the rights mentioned. As he had frequently pointed out, the State could not decline responsibility for ensuring adequate living conditions for its citizens if it asked them to sacrifice their lives in its defence. If systems of government capable of doing so existed, it would be

better that they should be done away with than that human lives should be sacrificed to them. In signing the Charter of the United Nations and the Universal Declaration governments had accepted the obligation to implement fundamental human rights as a means of safeguarding peace. The third paragraph of the preamble to the Universal Declaration stated:

"Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,".

Such had been heard during the discussion of the need for relieving economically under-developed countries of excessively onerous obligations. But if unfavourable economic conditions did in fact retard the application of economic, social and cultural rights, the country concerned would incur no censure. He feared that the underlying reason for such assertions was that certain governments, in spite of their countries' wealth, did not always ensure the full enjoyment of those rights by their citizens.

It had also been argued that a general clause laying down the obligations of governments would tend to lessen the significance of the rights enunciated in the International Covenant. He was unable to accept that. The problem was very serious. His delegation was anxious to help the Commission to reach a just decision which would contribute to the consolidation of the United Nations and to securing the acceptance of international obligations untrammelled by reference to national systems.

In point of fact, and viewing the problem as a whole, his delegation did not consider that a general clause on economic, social and cultural rights was indispensable, since the preamble of the draft Covenant would be quite enough in itself.

Mr. DUPONT-MILLERON (Guatemala) said that he had agreed to co-sponsor the joint amendment submitted by the Chilean and Egyptian delegations in a spirit of conciliation, but he was not entirely satisfied with the expression "and in accordance with their organisation", which he thought should either be

deleted or replaced by the phrase "whatever their organization". He therefore supported the request of the Uruguayan representative that a vote be taken by division on the several parts of the proposals before the Commission.

The CHIKHIN, speaking as representative of Lebanon, agreed with the Guatemalan representative's comments on the phrase "and in accordance with their organization". Either they were superfluous, or they hinted at a reservation which might give rise to the suggestion that the phrase was intended as an "escape clause". He was unable to support any proposal involving such reservations. Article 56 of the Charter, in its reference to the purposes set forth in Article 55, imposed a clear commitment; it would hardly be proper for the Commission to try to improve on the Charter.

Mrs. ROOSEVELT (United States of America) said that the proposals relating to the general clause constituted an attempt to develop the broad principles laid down in the Charter. If no such attempt could ever be made, then the Commission's work was surely unnecessary.

Different interpretations had been placed on the meaning of the terms "organization and resources" used in the joint French and United States amendment (E/CN.4/615). Her delegation interpreted those words, not as tantamount to an escape clause, but merely as a recognition of de facto situation, namely, that different countries were differently organized and that the obligations of governments must necessarily be linked to their respective national systems and available physical resources. She strongly urged the Commission to adopt the joint French/United States amendment.

Mr. CASSIN (France), referring to the changes made in the fourth paragraph of the French proposal (E/CN.4/612), by the joint French/United States amendment, said that, at the request of certain delegations and with a view to strengthening the undertaking included in the original French proposal, the two delegations had agreed to substitute for the expression "to take ..... steps to ensure....." the phrase "to take steps .... by legislative measures or other methods ....", which was based on article 1, paragraph 2, of the draft Covenant.

Similarly, the words "the progressive implementation" had been replaced by the words "progressively the full realization", in order to strengthen rather than to weaken the objective set before future contracting parties.

The joint amendment as a whole had the substantial advantage of transforming Article 22 of the Universal Declaration, which recognized economic, social and cultural rights, into a specific legal obligation.

The joint amendment submitted by the delegations of Chile, Egypt and Guatemala omitted any reference to resources, although the expression "their resources" was intended to convey, not that States should, in implementing the rights in question, renounce all progress which was beyond their own resources, but that countries with substantial resources should lend their assistance internationally.

By substituting the phrase "conformément à leur organisation" for the phrase "compte tenu de leur organisation" in the French text, the three authors of the amendment were departing from a formula which had been borrowed from the Universal Declaration, and which had been chosen in order to emphasize that States should implement economic, social and cultural rights gradually in accordance with their respective structures.

As to the Yugoslav proposal, it was unacceptable because it omitted all reference to structure, and especially because it would restrict the enjoyment of economic, social and cultural rights to the nationals of each country party to the Covenant.

Mr. SANTI CRUZ (Chile) said that in view of the reservations entered by the Guatemalan representative with regard to the use of the expression "in accordance with their organization", he was prepared to delete that phrase from the joint amendment if the deletion was acceptable to the Egyptian representative.

Mr. KUVLENKO (Ukrainian Soviet Socialist Republic) maintained that it was impossible to discuss the general clause without reference to the specific articles themselves, and fully agreed with the criticisms made at the preceding meeting by the Soviet Union representative. The United States



proposals for the general clause were wholly in keeping with that delegation's desire to run counter to the decisions of the General Assembly and the Economic and Social Council by excluding economic, social and cultural rights from the Covenant. He agreed that those proposals were tantamount to an attempt to include within the Covenant a special instrument covered by a special preamble in order to give governments an opportunity of evading the obligations which they would be required to assume in accordance with the Covenant. Article 2 of the draft Covenant allowed for certain limitations in the event of a state of emergency or of public disaster, but that was not enough for the United States Government, which was endeavouring to hedge about the part of the Covenant devoted to economic, social and cultural rights with so many restrictions and exceptions that its entire significance would evaporate. If the United States point of view prevailed, governments would be able to flout the economic and social provisions of the Covenant. Further, under the United States proposals the right to education and the right to equal pay for equal work might be sacrificed to the "just requirements of morality, public order and the general welfare in a democratic society". What good could be said of democratic principles if they merely enabled governments to circumvent their obligations to ensure an adequate standard of living for their peoples?

Such proposals were wholly unacceptable to his delegation.

The CHAIRMAN, speaking as representative of Lebanon, was prepared to accept the first paragraph of the French proposal (E/CN.4/612), but drew attention to certain shortcomings in the English version of the second paragraph. Moreover, the reference to "every human being" in the third paragraph seemed to be somewhat out of place in a text which concerned States. He would prefer the very general term "man" in that context. There was a certain discrepancy between the second and third paragraphs, the former being couched in negative and the latter in positive terms. He also regretted the lack of any reference in the third paragraph to the spiritual aspects of human development, and would press for some mention thereof in order to complete the survey of circumstances affecting mankind.

Turning to the amendments submitted to the fourth and last paragraph of the original French proposal, he proposed the substitution of the word "whatever" for the words "in accordance with" in both texts. He also feared that the term "progressive" used in relation to implementation in the amendment submitted by the Chilean, Egyptian and Guatemalan delegations (E/CN.4/616) might be open to misinterpretation. Certain rights, such as trade union rights, equal pay for equal work, and so on, could be implemented without delay, although others would necessarily have to be implemented progressively. It might perhaps be possible for the sponsors of the tripartite amendment to devise some formula which would allow for such duality of implementation. On the whole, and despite that shortcoming, he preferred the tripartite amendment, subject to acceptance of his proposal concerning the use of the term "whatever". He noted that the revised Yugoslav proposal (E/CN.4/609/Rev.1) made no reference to progressive implementation, and feared that the phrase "full exercise of the economic, social and cultural rights" was a little too far-reaching.

Mr. EUSTATHIDES (Greece) wished to make certain remarks on the three opening paragraphs of the French basic proposal (E/CN.4/612), which, he felt, should be retained, whatever the Commission's final decision on the various texts before it.

He would like to see the word "indissoluble" deleted, from the first paragraph, so as not to prejudge the decisions to be taken later. The reference to Articles 22 et seq. of the Universal Declaration was likewise unessential.

In the second paragraph, the words "scourges, such as" might well be replaced by the words "scourges of".

Ideas which might be adopted either to form additional paragraphs or to supplement the existing ones were to be found in the Declaration of the aims and purposes of the International Labour Organization adopted at Philadelphia in 1944, for example, in the following passages:

"Poverty anywhere constitutes a danger to prosperity everywhere;

"The war against want requires to be carried on with unrelenting vigour within each nation, and by continuous and concerted international effort...

"All human beings irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity."

With regard to the fourth paragraph, he was in favour of the joint French/United States amendment thereto which, while based on various sections of the Charter, such as Article 1, paragraph 3, Article 55 and Article 56, went further and involved more specific legal undertakings. The same considerations held if the draft amendment in question were compared with the Universal Declaration.

The use of the words "their resources" had been criticized as signifying that progress in any given country would be adapted to the level of that country's resources. On the contrary, the use of the words would re-inforce the obligations of States with substantial economic resources. In addition, no delegation could claim authorship of the expression, which the World Health Organization and the United Nations Educational, Scientific and Cultural Organization had both used in their proposals. Hence his delegation would vote in favour of the French/United States amendment.

Mrs. MENTH (India) drew attention to the fact that the first three paragraphs of the original French proposal had not yet been discussed by the Commission. As she had already pointed out, at the 231st meeting, she failed to see the necessity for linking economic, social and cultural rights with civil, civic, and political rights if there was only to be one single Covenant. She agreed with the Chairman that the second and third paragraphs might be improved by editorial changes. As to the fourth paragraph, she would like to ask for some clarification on the inter-play between individual action by governments and international co-operation. If the meaning was that when the resources of a State were inadequate it would receive international help,

certain conditions which it would have to accept, she would be unable to agree to that text. It should be for a State to declare that its resources were inadequate and to ask the United Nations for assistance, which should be granted provided the request was justified. Consequently, it would be preferable to make the reference to "resources" precede the reference to "international co-operation". On the whole, she could accept the joint French/United States amendment, subject to the deletion of the words "organisation and", but would press for the retention of the reference to "resources".

Mr. JEVREMIĆ (Yugoslavia), commenting on the use of the words "to their nationals" ("à leurs citoyens") in his revised proposal (E/CN.4/609/Rev.1), said that, since his delegation had no intention of suggesting that the enjoyment of rights should be reserved to the citizens of a State, he was prepared to substitute the words "to all" ("à tous").

He was opposed to the epithet "progressive" used in the tripartite amendment (E/CN.4/616), on the ground that paragraph 2 of article 1 of the Covenant fully covered that point by stating that:

".....each State undertakes.....to adopt within a reasonable time such legislative or other measures as may be necessary to give effect to the rights recognized in this Covenant."

Mr. YU (China) considered that a proper balance should be maintained between the ideal and the practical. Much had been said about the possible evasion of obligations, but he would recall that the Charter itself had already been violated time and again. Despite that fact, it remained a valid instrument.

Of the several proposals before the Commission, the French/United States amendment (E/CN.4/615) covered both the economic issue and that of the organization of States. Although he appreciated the force of the arguments adduced by the Chairman as representative of Lebanon, he considered that the substitution of the term "whatever" for "in accordance with" implied a radical

change of principle. If governments pledged themselves to take certain measures, whatever their national systems, it would mean that they would have to honour all their obligations without regard to their national resources and legislation. It seemed to him that a touch of realism was necessary. Twentieth century society had not done much better than earlier generations in the observance of treaty obligations, and to draft too idealistic an instrument would be to court its violation. Could even a country so wealthy and so well-organized as the United States of America really proceed immediately to carry out the provisions relating to primary education adopted by the Commission? Due recognition would have to be given to the differences between national resources, and to the handicaps under which certain States laboured, if the harmonious implementation of certain rights was to be achieved. He was consequently in favour of such safeguards, which need not necessarily be regarded as escape clauses, since resources could increase and systems change.

He would be prepared to vote for the French/United States amendment (E/CN.4/615). The tripartite amendment (E/CN.4/616) did not refer to "resources", and was therefore less acceptable.

In general, he could not but congratulate the French representative on submitting a nobly worded and comprehensive text. But he agreed with the Greek representative that there was no need to refer in the first paragraph to the "indissoluble link" between the two kinds of rights; some formula which would simply indicate harmony between them would be preferable.

Finally, he agreed with the Chairman that some reference to the spiritual needs and development of mankind should be included in the general clause, and did not doubt that the French representative would be able to devise a satisfactory formula.

AMR Bey (Egypt) announced that the authors of the joint Chilean/Egyptian/Guatemalan amendment (E/CN.4/616) agreed to the deletion of the phrase "in accordance with their organization" and the word "progressive".

He moved that the discussion be closed, to enable the Commission to vote on the proposals before it.

Mr. MEROSOV (Union of Soviet Socialist Republics) said that he had asked to speak at the preceding meeting, and had not yet had the opportunity of expressing his views on the new proposals submitted to the Commission. He would therefore ask the Egyptian representative to withdraw his motion.

ASHI Bey (Egypt) said that he would be pleased to do so.

The CHAIRMAN, speaking as representative of Lebanon, supported the tripartite amendment as it now stood.

Mrs. ROOSEVELT (United States of America) was prepared to accept the first three paragraphs of the original French proposal (E/CN.4/612), subject to the adoption of the amendments to the first paragraph suggested by the Greek representative. She also asked whether the French representative could agree to the deletion of the words "and incite them to hatred" from the second paragraph.

Mr. SØRENSEN (Denmark) wished to draw attention to a difficulty that would arise in connection with the question raised by the French and Yugoslav representatives, namely, whether economic, social and cultural rights should be extended to all persons within the jurisdiction of a State, and not to its nationals alone. He felt that, while sight should not be lost of the higher principles, it was none the less necessary to be realistic, and to ascertain exactly what governments were prepared to accept without modification of their national legislations. On the question of the relative rights of refugees and nationals, it would be recalled that a special convention on the status of refugees and stateless persons was under consideration by the United Nations. Consequently, no country would be ready to grant to refugees the rights enjoyed by nationals without further detailed consideration of the question. Again in the field of social security, there had been lengthy negotiations between the Brussels Treaty States on the granting of reciprocal rights to their nationals,

and the five northern countries had taken steps of a similar nature in connexion with old age pensions. Thus the extension of economic, social and cultural rights was a task that had to be carried out gradually. If an attempt were made to extend them by a single stroke of the pen in the Covenant, a number of countries might be expected to decline, not without reason, to ratify the Covenant.

If the intention of the proposals before the Commission was to provide for the extension of those economic, social and cultural rights that had been adopted, without distinguishing between nationals and non-nationals, his delegation would be obliged to abstain from voting on the general clause, and indeed, on the whole section on economic, social and cultural rights.

Mr. WHITLII (Australia) supported the joint French/United States amendment (E/CN.4/615). He would also accept the first three paragraphs of the original French proposal (E/CN.4/612), provided effect were given to the various amendments suggested in the course of the discussion. He further hoped that due account would be taken of the remarks of the Chinese and Indian representatives with regard to the words "in accordance with their organization and resources". The limitation implied by those words undoubtedly raised difficult questions, but the use of the clause could in no way be considered as an attempt to make it easier for States to evade their responsibilities. After all, the Commission had to face up to the fact that a number of different political systems existed in the world, and to recognize that each of them had been built up for positive and not for evasive purposes. His delegation could not accept the limitation in the form of a clause reading "whatever their organizational resources", and he therefore urged that the original text be retained.

Mr. HUNCOV (Union of Soviet Socialist Republics) considered that the new proposals added little or nothing to the earlier ones, and in no way justified any modification of the stand his delegation had previously taken on the question. Further, no arguments had been adduced to challenge his delegation's point of view.



The reasons underlying the attitude of the United States delegation, and of those who supported it, were clear. They were pressing for a return to the position which the Commission had taken at its sixth session, when it had decided to include economic, social and cultural rights in a supplementary covenant, although that decision had subsequently been reversed by the General Assembly. The renewed attempt to relegate economic, social and cultural rights to a separate covenant was simply an attempt to close the vicious circle.

He regretted to see that some delegations which had objected to the United States proposals, and apparently still objected to them, were confining themselves to academic observations on shades of meaning, and the like, which had little bearing on the substance of the matter. There could be no question of finding a hole in the general clause, for that clause itself was nothing but a loop-hole. He was not surprised that the United States delegation and its supporters should be up to their old game of achieving their ends by any means, fair or foul, but he was disturbed to see those delegations which had considered that the Covenant should be all-embracing, being led astray by the French proposal, however attractively presented. Only through the inclusion of economic, social and cultural rights in the Covenant could effect be given to the decisions of the General Assembly and the principles enunciated in the Universal Declaration of Human Rights; those rights must be linked with civil and political rights, on which all other kinds of rights depended. Acceptance of the French proposal would be tantamount to a refusal to carry out the instructions of the General Assembly. He appealed to those who were opposed to the United States point of view to consider the dangers inherent in the adoption of the French proposal, quite apart, of course, from the question of the unsatisfactory nature of the articles already adopted on economic, social and cultural rights. Acceptance of the French proposal would mean the restriction of economic, social and cultural rights, non-observance of the principle of non-discrimination in respect of such rights, and the separation of provisions relating to those rights from the general provisions of the Covenant itself.



Again, if, for example, the article on the right to health which had been adopted, which was more or less satisfactory, were made subject to a general clause such as that proposed by the French delegation, that article would become so flexible that a State would be able to evade its obligations thereunder as it pleased, and plead the vague general clause in justification of any violation of it. The same consideration applied to the other articles on economic, social and cultural rights adopted by the Commission.

His delegation would continue to press for the inclusion in the draft Covenant of texts which would contribute to the general exercise of the rights defined in the Covenant, and would therefore vote against all the proposals which were before the Commission on that question. In his view, the circumstances warranted the conclusion that the Commission should first vote on the principle of whether or not a general clause should be included in the section on economic, social and cultural rights.

Mr. SANTI CRUZ (Chile) agreed with the Soviet Union representative that the Commission should first decide in principle whether a general clause concerning the implementation of economic, social and cultural rights should be included in the Covenant. The resolution submitted jointly by his delegation and those of Egypt and Guatemala, with the two deletions from its text already agreed to, added nothing to article 1, paragraph 2, of the draft Covenant. There was therefore reason to doubt the necessity of adopting a special general clause.

The CHAIRMAN confirmed that the Chilean representative's point would be borne in mind when the Commission came to vote on the proposals. He felt that, since the joint amendment submitted by the Chilean, Egyptian and Guatemalan delegations approximated so closely to the terms of paragraph 2 of article 1 of the draft Covenant, the Soviet Union representative could not object to it, except possibly on the ground that it was superfluous.

Mr. CASSIN (France) was prepared to delete the words "(article 22 et seq.)" and, if necessary, the words "(civil, civic and political)" from the

first paragraph of the original French proposal, but wished to retain the word "indissoluble" to show his attachment to the principle of one Covenant proclaimed by the General Assembly.

The second paragraph might be curtailed, as suggested by the United States representative, and end at the words "their personality".

In the third paragraph, in order not to ignore the right to education, the phrase "and shall achieve an adequate material and spiritual standard of living" might be used.

In the fourth paragraph, as it read after amendment by the joint French/United States proposal (E/CN.4/615), the words "their organization", "resources", "international co-operation" and "progressively", would have to be retained.

In accordance with the wish expressed by the General Assembly, the Commission should draft a single covenant, the provisions of which should not be made too onerous for under-developed States.

He considered it apposite to add that France was to a certain extent anticipating the obligations which would arise from the Covenant, since she was about to adopt a Labour Code for her dependent territories which would put the workers of her non-self-governing territories on an equal footing with those in metropolitan France.

The British representative had made some wise comments on the status of aliens. But the use of the word "progressively" would make it possible to implement the rights progressively, particularly by reciprocal agreements concerning aliens and by an international convention concerning refugees and stateless persons.

Mr. KOVLENKO (Ukrainian Soviet Socialist Republic) submitted that the French representative's remarks proved that there was no good reason for including in the Covenant a general clause covering economic, social and cultural rights. In contrast to what that representative had said, he believed that, if the French proposal were adopted, the whole structure of economic, social and cultural rights which the Commission had been at such great pains to build up would collapse. He agreed with the Chairman that the joint

Chilean, Egyptian and Guatemalan amendment was superfluous; and since it applied to the fourth paragraph of the French proposal, it would seem that only the first three paragraphs of the latter need be retained. In the circumstances, he supported the proposal that a vote should be taken on the question of principle whether or not a general clause should be incorporated in the section on economic, social and cultural rights.

The CHAIRMAN said he would put the issue of principle to the vote.

Mrs. ROOSEVELT (United States of America), speaking to a point of order, observed that the taking of a vote on the issue of principle would be nothing less than an evasion of the responsibility of voting on the proposals which had been submitted for the precise purpose of being voted upon. A vote on principle, if taken at all, should follow the voting on the various proposals before the Commission.

Mrs. NARAI (India), also speaking to a point of order, submitted that during the drafting of the various articles on economic, social and cultural rights, it had been understood that there would be a general clause limiting those rights. Was it the intention to go into that matter again?

The CHAIRMAN pointed out that the Commission had taken no definite decision on the question.

Mr. YU (China), speaking to a point of order, recalled the French representative's earlier proposal concerning the question of principle and the Commission's decision to defer a decision on the matter to a later stage. The present discussion had been begun on the understanding that a general clause would be incorporated in the Covenant. In his view it would be unfortunate if the Commission were to repeat the procedure adopted in the case of the right to own property.

The CHAIRMAN did not think that the remarks of the Chinese and Indian representatives affected the basic issue as to whether or not the Commission

wished to take a decision on the principle. He would therefore put that question to the vote.

The Commission decided by 11 votes to 3 with 4 abstentions that a vote should be taken on the principle of whether or not a general clause relating to economic, social and cultural rights should be incorporated in the draft Covenant.

Mr. S.M.T. GUZ (Chile) said that he would vote against the inclusion of a general clause relating to economic, social and cultural rights. Such a clause would only be justifiable if the Commission were to contemplate drawing up a separate Covenant for that category of rights.

As he had already pointed out, the joint amendment submitted by the delegations of Chile, Egypt and Guatemala would duplicate article 1, paragraph 2 of the Covenant. The words "their organization" and "resources" in the joint French/United States amendment introduced restrictions which were too narrow. The use of the term "progressively" seemed to overlook the fact that there were certain rights which it would be impossible to implement immediately.

The provisions of article 1, paragraph 2 of the draft Covenant were not rigid, because they were qualified by the words "within a reasonable period."

Mr. CASSIN (France) stressed, in order to avoid any misunderstanding, that economic, social and cultural rights were just as fundamental as political rights, although they were of a different kind.

If the two categories of rights were drafted in hard and fast terms, there was reason to fear that certain States would be unable to ratify the Covenant.

The CHAIRMAN said he would put to the Commission the following draft resolution:

"The Commission on Human Rights

decides to include a general umbrella article in that part of the Covenant dealing with economic, social and cultural rights".

Mr. HALLIDAY (United Kingdom), speaking to a point of order, said that he could not vote for a resolution drafted in such terms, since his delegation did not believe that economic, social and cultural rights should be included in the Covenant. He agreed that some umbrella clause was necessary, and suggested that the Chairman's proposal be amended to read:

"The Commission on Human Rights

Decides to include a general umbrella article in connexion with the articles on economic, social and cultural rights."

Mr. MIKUSOV (Union of Soviet Socialist Republics), replying to the CHAIRMAN, said he considered that the United Kingdom representative's suggestion changed the whole position. He preferred the Chairman's original formula.

Mr. SANTI CRUZ (Chile) also preferred the text proposed by the Chairman.

After a further exchange of views, the Commission decided by 10 votes to 8 to include a general umbrella article in connexion with the articles on economic, social and cultural rights.

The CHAIRMAN requested the Commission to vote on the Yugoslav proposal (E/CN.4/609/Rev.1), with the substitution of the word "all" for the words "their nationals" in the fourth line.

Mr. SANTI CRUZ (Chile) requested that a separate vote be taken on the words "in accordance with the level of their economic development".

Mr. WAHEDI (Pakistan) proposed that the words "and resources" be inserted after the word "development" in the third line of the Yugoslav proposal.

The Pakistani proposal was rejected by 3 votes to 3 with 12 abstentions.

The Commission agreed by 3 votes to 2 with 12 abstentions that the words "in accordance with the level of their economic development" should be retained.

The Yugoslav proposal (E/CN.4/609/Rev.1) was rejected by 8 votes to 3 with 7 abstentions.

The CHILIAN requested the Commission to vote on the first three paragraphs of the French proposal, as set out in document E/CN.4/612.

Mr. SANTA CRUZ (Chile) requested that, when the fourth paragraph came to be voted on, a separate vote be taken on each of the following expressions: "in accordance with their organization"; "in accordance with their resources"; and "progressively".

It was agreed by 4 votes to 2 with 12 abstentions that the word "indissoluble" should be deleted from the first line of the first paragraph.

The first paragraph reading:

"The States parties to the present Covenant, -  
bearing in mind the link between the rights and  
liberties acknowledged and defined above, and the  
economic social and cultural rights proclaimed in  
the Universal Declaration on Human Rights"

was adopted by 11 votes to none with 6 abstentions.

The CHILIAN proposed the deletion of the comma and words "such as" after the word "scourges" in the first line of the second paragraph.

Mr. C. JIN (France) wished to retain the words "such as".

It was decided by 5 votes to 4 with 9 abstentions that the comma and the words "such as" after the word "scourges" in the second paragraph should be retained.

The second paragraph, without the words "and incite them to hatred", was adopted by 11 votes to none with 6 abstentions.

The third paragraph, subject to the inclusion of the words "material and spiritual" after the word "living" in the last line, was adopted by 11 votes to none with 7 abstentions.

The CHAIRMAN requested the Commission to vote on the joint French/United States amendment (E/CN.4/615) to the fourth paragraph of the French proposal (E/CN.4/612), beginning with the separate votes which the Chilean representative had requested. The word "or" in the second line of the English text of the amendment should read "and".

It was agreed by 6 votes to 6 with 6 abstentions that the words "in accordance with their organization" should be deleted.

It was agreed by 6 votes to 5 with 5 abstentions that the words "in accordance with their resources" should be retained.

It was agreed by 7 votes to 6 with 5 abstentions that the word "progressively" should be retained.

The joint French/United States amendment (E/CN.4/615) to the fourth paragraph of the original French proposal (E/CN.4/612), as amended, was rejected by 8 votes to 8 with 2 abstentions.

The CHAIRMAN requested the Commission to vote on the joint Chilean/Egyptian/Guatemalan revised amendment (E/CN.4/616) to the fourth paragraph of the original French proposal reading:

"pledge themselves to take steps, both individually and through international co-operation, to ensure by legislative or other measures the implementation of the rights recognized hereunder".

The Chilean/Egyptian/Guatemalan joint amendment, as revised, was rejected by 11 votes to 6 with 1 abstention.

The CHAIRMAN said he would put the French proposal (E/CN.4/612), as amended, to the vote.



Mr. CASSIN (France) felt that, in view of the results of the votes just taken, the Commission should revert to the original text submitted by the French delegation (E/CN.4/612).

The CHAIRMAN observed that the rules of procedure would not allow that.

Mr. WAHEDI (Pakistan), speaking to a point of order, questioned whether it was possible to vote on the amended French text, since it no longer contained a substantive clause.

The CHAIRMAN considered it correct to put the French proposal as amended to the vote.

The French proposal for a general clause concerning economic, social and cultural rights (E/CN.4/612), as amended, was rejected by 9 votes to none with 6 abstentions.

Mrs. MEHTA (India), speaking to a point of order, observed that the Commission had decided that a general clause should be included in the Covenant, and that consequently another text would have to be provided.

The CHAIRMAN remarked that it was for the Commission to decide whether the question of the submission of new texts for a general clause should be re-opened.

Mrs. ROOSEVELT (United States of America) supported the Indian representative. The voting on the first three paragraphs of the French proposal showed that a considerable majority favoured them, and the voting on the substantive paragraph had been very close; it might well have been that representatives had not fully understood all the implications of the voting.

Mr. CASSIN (France) offered to revert to the original text of the fourth paragraph of his proposal with the substitution of the words "of the rights" for the words "of all of these rights, and, in particular, of the rights."



Mr. SANTI CRUZ (Chile) considered that the Commission had the sovereign authority to decide whether the discussion should be re-opened. The General Assembly resolution by virtue of which the Commission was functioning did not go so far as to compel the Commission to adopt a text which it did not find satisfactory. So far as he himself was concerned, however, and out of courtesy to the members of the Commission who desired it, he would not object to the re-opening of the discussion on the general clause.

The CHAIRMAN agreed that the Commission was not obliged to re-open the matter.

Mr. YU (China) supported the Indian representative for the reasons indicated by the United States representative. The issue had been confused by lengthy procedural discussions. It would be wrong to have spent so much time on the problem without finally presenting a text to the Economic and Social Council.

Mr. NIKUSOV (Union of Soviet Socialist Republics) agreed with the opening remarks of the Chilean representative. Consideration had to be given to the fact that the Commission's time was limited, and that it had still many questions to tackle. Many different points of view had been expressed with regard to the various provisions, and he felt that those who had further modification to propose could well do so in the Economic and Social Council or in the General Assembly. In his view, it was not right that after the procedural decision just taken a number of members should in the face of the rules of procedure attempt to force their will upon the Commission. He pointed out that formalistically reconsideration of the decision that no more new texts could be submitted would require a two-thirds majority. At any rate, he could see no reason for reconsidering the previous decision regarding the deadline for submission of texts for the general clause. It was quite clear that the Commission had reached an impasse.

The CHAIRMAN agreed that a deadlock had been reached. The Commission had taken a positive decision on the principle, and vitiated that decision by

rejecting all the relevant texts before it. The whole matter could be left to a higher body, but he would certainly observe the rules of procedure and act on any motion that the question of receiving further texts for a general clause be re-opened.

AZMI Jey (Egypt) stated that, in the various votes which had just taken place, he had voted sometimes pro, and sometimes contra, and that he had at other times abstained, because he had understood from the discussion that some speakers were trying to revert to the idea of separate Covenants.

He felt that the Commission should consider the question of including a general clause relating to economic, social and cultural rights as settled, and proceed with the remaining items of its agenda.

Mrs. ROOSEVELT (United States of America) said that if the Indian representative did not have reconsideration of the question of the submission of new texts for the general clause, she herself would do so.

The CHAIRMAN ruled that the Commission should consider the United States proposal at its next meeting.

The meeting rose at 1.50 P.M.