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Held at Headquarters, New York,
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<u>Chairman:</u>	Mr. MALIK	(Lebanon)
<u>Reporteurs:</u>	Mr. MITLAN	Australia
<u>Members:</u>	Mr. NILOT	Belgium
	Mr. VALANZUELA	Chile
	Mr. CHENG YACHAN	China
	AZMI Bey	Egypt
	Mr. JUVIGNY	France

Members (continued):

Mr. KYRCU	Greece
Mrs. MEHTA	India
Mr. AZYUL	Lebanon
Mr. WAHED	Pakistan
Mr. BORATYNSKI	Poland
Mrs. ROSSEL	Sweden
Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. MOROZOV	Union of Soviet Socialist Republics
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mr. SIMSARIAN	United States of America
Mr. BRACCO	Uruguay
Mr. JEVRETOVIC	Yugoslavia

Representatives of specialized agencies:

Mr. MORILLET) Mr. PICKFORD)	International Labour Organisation (ILO)
Mr. SABA	United Nations Educational, Scientific and Cultural Organization (UNESCO)

Representatives of non-governmental organizations:

Category A:

Mr. LEARY) Miss GENDER)	International Confederation of Free Trade Unions (ICFTU)
Miss KASH	World Federation of Trade Unions (WFTU)

Category B:

Category B
and Register

Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mrs. SUDAN	International Federation of Business and Professional Women
Mrs. SOBB	Liaison Committee of Women's International Organizations
Mr. JACOBY) Mr. PERLWEIG)	World Jewish Congress
Mr. ROSALES	World Union for Progressive Judaism
Miss SCHEFFER	World Union of Catholic Women's Organizations
Mr. PENCE	World's Alliance of Young Men's Christian Associations

Secretariat:

Mr. DAG) Miss KITCHEN)	Secretaries of the Commission
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DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION:
PART III OF THE DRAFT COVENANT DRAWN UP BY THE COMMISSION AT ITS SEVENTH SESSION
(Basic documentation as in E/CN.4/SR.268; also E/CN.4/L.47, E/CN.4/L.64/Rev.2,
E/CN.4/L.68) (continued)

Point of order raised by the Belgian representative

Mr. NISOT (Belgium), speaking on a point of order, explained that instructions from his Government to submit amendments to article 28 had only just reached him after an unavoidable delay. He was aware that the time limit for submission of amendments had elapsed, but earnestly requested the Commission to allow him to submit the amendments in question.

Mr. KYROU (Greece), AZMI Bey (Egypt), Mr. MOROZOV (Union of Soviet Socialist Republics), Mr. BRACCO (Uruguay) and Mr. JEVREMOVIC (Yugoslavia) spoke in favour of receiving the Belgian amendments.

The Commission acceded to the Belgian representative's request

/Article 22

Article 22 (continued)

Mr. JUVIGNY (France) said that the French amendment (E/CN.4/L.65) to article 22, which introduced a reference to "social welfare", was intended to make the article more flexible. At present, that article recognized only the right to social security. While social security embraced a wide field, it was based on administrative and social conditions which differed from country to country; furthermore, not even in that happy future in which the various economic and social rights were to be fully realized would social security apply to all members of society. France had learned from experience that it was impossible to extend the social security system to all categories of the population because of financial and administrative difficulties and sometimes even because of the resistance of the persons concerned. Persons who were not covered by social security should nonetheless be protected by society. Some individuals would always, for one reason or another, find themselves beyond the scope of such a system; yet they were as much entitled to protection by society as anyone else. Furthermore, social security systems usually involved payments by the beneficiaries. Countries in early stages of economic evolution might find it difficult to make such systems apply to the great masses of the population. The French amendment, under which the right to social welfare, as well as to social security, would be recognized, would enable States to fill any gaps left by their social security systems and to take care fully of all their citizens, providing social services which would not be included in the technical or narrow sense of the term "social security". He was aware of the work undertaken by the ILO on the subject of social security, but thought that, far from conflicting with it, the French amendment would complement it.

Mr. JAVROVIC (Yugoslavia) agreed with the Egyptian representative's remarks at the previous meeting to the effect that article 22 had been discussed at great length at the seventh session and that the term "social security" was extremely broad; but he was unable to agree that the article was satisfactory and represented the best that could be done at the present time. The article was unacceptable precisely because the term "social security" was so broad that it could be interpreted in any number of ways; an article dealing with an

important human right should not be so loosely drafted. He had submitted his revised amendment (E/CN.4/L.64/Rev.2) -- which differed from his earlier text (E/CN.4/L.64/Rev.1) only on a minor drafting point -- in an attempt to define social security; it covered both social insurance, four types of which were cited as examples -- the list was not meant to be exhaustive -- and social assistance. There was also a definition of the scope of social security: it must provide everyone with the necessary means of subsistence. The second paragraph of the Tugolov amendment linked article 22 with articles 20 and 21 for obvious reasons: every person must be guaranteed the right to work; but if he was unable to exercise that right, society and the State were still obliged to guarantee to him at least the means of subsistence. No covenant on human rights could do less than obligate States, at whatever cost to them, to ensure the survival of their citizens, and he was sure that the Commission would take the same view.

Mr. MOROZOV (Union of Soviet Socialist Republics) remarked that article 22, as adopted at the seventh session, was one of the least satisfactory articles in the covenant. The brief declaratory statement it contained was in contradiction with the Universal Declaration of Human Rights, since it spoke only of social security, whereas the Declaration, in addition to social security, mentioned "other means of social protection" in article 23, paragraph 3, and described what was generally understood by social insurance in article 25, paragraph 1. Social security did not, as some members had said, include social insurance; otherwise these two concepts would not have been laid down independently in the Declaration. A refusal to include a mention of social insurance in article 22 of the covenant would therefore deprive workers of the right to such insurance as was granted to them in the Declaration. It was not a matter of drafting, but of divergence of opinion on a basic principle.

The USSR amendment (E/CN.4/L.47) proposed the insertion of the words "to social insurance" because that subject was of particular importance in present-day capitalist society, where monopolistic employers, after so exploiting their workers that they were good only for the scrap-heap in middle age, replaced them by strong young recruits from the great army of unemployed that

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were always at their disposal. The Secretary-General in his report on welfare of the aged: old age rights (E/CN.5/200/Add.1-E/CN.4/262/Add.1) drew attention to the fact that in times of depression the older groups of employed had often been, if not among the first to be dismissed, then certainly among the last to be re-employed; that consequently among the unemployed older persons predominated; and that many such persons had been forced to retire before they were willing or ready to do so.

The need for social insurance to enable such people to survive was therefore obvious. Social insurance was nothing new; most countries had already introduced it in some form, and the purpose of the first part of the USSR amendment was to induce them to develop it further.

The second part of that amendment provided that the cost of social insurance and social security must be borne by the State or by the employer -- which did not exclude a combination of the two -- and, for greater flexibility, stated that such action should be "in accordance with the legislation in force in each country". The USSR was not attempting to impose on other countries its own comprehensive system of social insurance, which might be too costly for them; it merely asked for a recognition of the principle that the workers, already heavily exploited, should not be made to bear the costs of social insurance and social security, as was the case in many countries, such as the United States, where such schemes were financed entirely out of taxation and deductions from workers' earnings. It was only just that the employers, who had profited by the workers' labour, should release a small portion of their profits for that purpose. He therefore urged the Commission to adopt the USSR amendment.

At the invitation of the CHAIRMAN, Miss KENN (World Federation of Trade Unions) stated that the World Federation of Trade Unions wished, in connexion with article 22, to stress the problems of the ageing population. It seemed obvious that in directing the Commission to improve the wording of the articles on economic, social and cultural rights to ensure more effective protection, the General Assembly had referred to article 22 among others because they merely enumerated rights. It was unfortunate that the draft of article 22 failed to reflect the concrete proposals submitted by WFTU at the preceding session.

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At present, the problem of the aging members of the population was of particular importance because of the inadequacies of the treatment of the problem in the existing draft. Although the Commission had an item on its agenda referring to old age rights, that item had been successively deferred pending completion of studies. Although research was valuable, it was not absolutely essential and the Commission should not be deterred from including specific provision for the care of the aged whose problems were becoming increasingly acute as life expectancy was increased. In most Member States of the United Nations the aged were inadequately protected.

The first essential protection was the establishment of a normal retirement or pensionable age. ILO was convinced that the retirement age should be set at fifty to sixty years for men and fifty-five to fifty-five years for women, depending on the nature of their work. In view of an increase of 9.9 to 16.4 years in the life expectancy of men since 1900 and an increase of 1 per cent per year in the population of the world, the percentage of the population in the upper age brackets was rising steadily. Although an ILO survey of social security for 1950 showed a trend toward a lower retirement age in some countries, the retirement age should be stated as a right, and security thereafter guaranteed.

In the United States, in Western Europe and in many other countries older workers seeking employment were at a great disadvantage and found themselves barred formally or informally from many jobs. An increased life expectancy was meaningless if employment opportunities were sharply reduced after an employee reached the age of forty and if he was not entitled to pension benefits until the age of sixty-five.

The second essential of an adequate programme for the aged was a universally applicable programme of pensions payable as a right and fixed at not less than one half of total normal earnings, taking into account the real purchasing power of the pension. In many cases pensions were grossly inadequate and voluntary retirement at the pensionable age became impossible for most workers, particularly in view of the high cost of living. In France, for example, it was estimated that the actual average pension for the aged amounted to 3900 francs a month while the absolute minimum living wage was calculated by the trade unions at 23,600 francs per month. Similar conditions obtained in the United States and in other countries where the aged were doomed to insecurity and even indigence.

In article 22 or article 25 the Commission should deal with the protection of the health and general welfare of the aged. It was tragic that the greatest medical problems frequently arose in old age when the individual's income was lowest.

The Commission could not disregard the urgent problem of the aged and must include general provisions guaranteeing a specific retirement age, adequate and universal pensions, and medical care for the aged. The present draft was inadequate and lacked sufficient precision to guarantee the rights of the aged.

Mr. PIERFORD (International Labour Organization) said, in amplification of his previous statement on articles 10, 21 and 23, that before the war the ILO had adopted a number of Conventions and Recommendations on various branches of social insurance. In the post-war period, in view of the new concept of social security, the ILO had undertaken to prepare a single comprehensive convention which, in the present draft, covered nine branches of social security: medical care, sickness, unemployment, old age, employment injury, responsibility for the maintenance of children, maternity, invalidity and death of the breadwinner. The single Convention was expected to be adopted in final form at the next general conference of the ILO. In view of the detailed nature of that Convention, the ILO considered it better to maintain the present wording of article 23 of the covenant. The Commission was again faced with the familiar problem of attempting within a small compass to state and eloquently define a basic and complex right. In view of the fact that the covenant was not to be taken in isolation but rather in the light of all the work of the United Nations and the specialized agencies, it would be advisable to have general and comprehensive language. As regards implementation, it would be clear that all countries would not be in a position to achieve all the phases of social security at once. The obligations set forth in article 1, paragraph 1, as adopted by the Commission at the present session were consistent with the ILO approach.

/Mr. VALLEZUELA

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Mr. VALENZUELA (Chile) noted three general features in the amendments so far submitted to article 22. Firstly, the French amendment and the first part of the USSR amendment sought to introduce the concept of social welfare or social insurance. The Chilean delegation was in favour of that addition to the article on social security.

Secondly, there was an attempt to state the scope of social security and to enumerate examples, as in the first paragraph of the Yugoslav proposal. In view of the statement of the representative of ILO, of the work of that specialized agency in evolving minimum rights under social security and of the fact that the general conference of ILO would take a final decision on the single convention before the opening of the seventh session of the General Assembly, it seemed advisable to refrain from defining the content of the right to social security at that stage and to leave the matter in the hands of the General Assembly itself.

Finally, the last paragraph of the USSR proposal dealt with the financing of social security schemes. The USSR proposal provided that the cost of such schemes should be borne by the State or the employer. It was essential, however, to consider the differing situations of Member States. Referring chiefly to the experience of Chile in financing social security, he noted that in many cases countries which were in the process of development had adopted the social security systems of highly industrialized countries. In general the greatest defect was the multiplicity of the systems and the impossibility in a democratic State of imposing a single system. In addition groups of workers who had acquired certain rights under individual systems were unwilling to renounce the benefits to which they were entitled in favour of a general and universal system.

It was also essential to consider that inflation represented a threat to social security systems and their actuarial computations. If, as the USSR proposed, the State assumed complete financial responsibility for social security, the workers would be deceived on all actuarial computations and forced to pay in advance for social security benefits which were subject to inflationary pressures. The Chilean system of equal contributions by the State, the employer and the employee seemed preferable. If the employer were to assume full financial responsibility for social security, he would include that expenditure in his production cost and increase his price accordingly,

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with a consequent increase in the cost of living, or he would reduce the salaries paid to employees. The Chilean delegation therefore preferred to have the workers co-operate in financing social security schemes and could not vote in favour of the USSR amendment.

Mrs. MENON (India) said that it had been repeatedly pointed out during the lengthy discussion of article 22 at the previous session that the concept of social security differed in different countries according to how it was applied. Although some further elaboration such as appeared in the Universal Declaration might be possible, it would be wiser to retain the text as it stood, in view of the difficulties likely to arise if such an attempt was made. The representative of the IFTU had rightly stressed the importance of old age rights; that had been recognized by placing the matter as a separate item on the Commission's agenda. Those rights would be better safeguarded by a separate convention, which a large number of States might well sign, rather than in the draft covenant, the future of which was still uncertain.

Mr. HEANE (United Kingdom) observed that the main question was whether to leave draft article 22 as it stood or to expand it. The ILO was about to undertake detailed work on the whole field of social security in order to devise multilateral conventions to cover all the aspects that could be put in treaty form. The Commission must bear in mind that when dealing with the economic, social and cultural rights, it was concerned rather with the formulation of objectives for action than with drafting specific provisions and that its decisions must leave the specialized agencies entirely free to pursue their work in their own fields. Thus, in many cases the details should not be written into the draft covenant but should be left to the specialized agencies to deal with in multilateral conventions, in recommendations, or in other ways. He agreed with the Chilean representative in that respect, and he agreed with the Indian representative that, if details were specified, they might well fail to be comprehensive and that the Commission could not be sure that the essentials of social security had been stated in such a way as to be applicable to all States. The Yugoslav amendment (E/CN.4/L.64/Rev.2), for example, made an attempt to specify the right to social security in detail,

but in the United Kingdom, where the social security system was as advanced as in any country, it was not true that everyone was insured against unemployment; the so-called self-employed enjoyed all benefits other than unemployment insurance. Again, not everyone was insured against industrial accidents. The Yugoslav amendment therefore ran counter to the actual facts in the United Kingdom.

The text should be retained in its present very general form, not only because of the difficulty of elaborating it but also because the Commission was seeking to formulate a right which many countries would find it hard to implement fully until a long time had elapsed.

The USSR representative's grim picture of monopolistic employers exploiting workers until they died of exhaustion or were tossed on the scrap heap to make room for the younger and more efficient had long been out of date. The existing social security system in the United Kingdom, like that in many other democratic countries, had not come into existence overnight; rather, it had been the result of the gradual awakening of the social conscience until it was no longer prepared to tolerate the abuses that had accompanied the early industrial revolution. Today, the outlook of employers, workers and the man in the street was completely different from what it had been a century ago, when such abuses as the USSR representative had described had been quite common; everyone was determined that every member of the community should be enabled to enjoy a decent standard of living.

Apart from the general criticism to which the Yugoslav amendment (E/CN.4/L.64/Rev.2) was open, the emphasis on the right to the necessary means of subsistence and the references back to articles 20 and 21 merely created confusion in an article which should be nothing if not clear cut. The concept of social security, moreover, was far broader than that expressed in the Yugoslav delegation's wording.

Undoubtedly, there was a difference, as the French representative had maintained, between social security in its general and in its strictly technical connotations. That divergence would not be remedied, however, by the insertion of the concept of social welfare, as proposed in the French amendment (E/CN.4/L.68), because the concept of social security still remained

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in the text and the words "social welfare", being merely an addition, did not qualify it. The words "social security" seemed broad enough to allow the inclusion of the concept of social welfare, particularly in view of the fact that the content of social security and the means adopted to achieve it must differ in different countries.

The USSR representative had, it was true, found a particular mention of social protection in article 23 of the Universal Declaration; but that was not a very valid basis for the definite distinction which he sought to make in this article of the draft covenant. It was certainly possible to isolate social insurance from social security, as the USSR representative had done in his amendment (E/CN.4/L.47); but it was equally certain that it could be regarded as subsumed under the concept of social security. To isolate it thus was to put the particular before the general.

The second USSR amendment had been well analyzed from one angle by the representative of Chile. From another angle, its inconsistency with the USSR representative's own statement was clearly apparent. As he had so fairly said, no delegation was trying to impose the system current in its own country upon other countries. The USSR amendment, however, in proposing that the cost of social security should be borne by the State or the employer was proposing a system which did not obtain in the United Kingdom or in many other countries. In the United Kingdom, it was generally felt that the tripartite system was best, at any rate for that country. The employer had some but not the sole responsibility for meeting the cost. It was felt -- and, despite inevitable grumbles, no counter-proposal had ever been heard -- that it was good for the worker to contribute to social security because the individual should feel that he was making a personal contribution to a scheme which was for his own welfare. As, too, the scheme was a collective one, it was only right that the State should also contribute. Furthermore, the social security system was regarded as in a sense taking the place of savings. As the USSR amendment conflicted with existing systems, he must oppose it and would support the retention of the original text unamended.

/s/ SINGH/EE

Mr. SCHARIN (United States of America) agreed with previous speakers that the first USSR amendment was unnecessary and undesirable; the reference to social security was adequate.

In connexion with the second USSR amendment the USSR representative had been inaccurate in stating that social security schemes in the United States were financed solely out of taxes and the workers' contributions. There were many different schemes in force; in some, the cost was borne by both the employers and the workers, in others the public as a whole contributed; others again were financed by both public and private funds; there were also schemes set up by collective bargaining. The Commission was not called upon to decide which method was best; to draft the article on the basis of any one scheme would be to limit it unduly. The purpose of the draft covenant was to state the recognition of certain economic, social and cultural rights in such a way that each State could enforce them within its own system. The first Yugoslav amendment also limited the scope of social security. In the United States, for example, children's allowances were paid, regardless whether their parents had ever worked or not. The second Yugoslav amendment was unnecessary, as article 22 was governed by the general clause already adopted in article 1. The French amendment too was unnecessary, as the representative of the ILO had explained that social security covered social welfare. The text was satisfactory as it stood; his delegation would therefore vote against all the amendments.

Mr. JUVIGNY (France) appreciated the intention underlying the Yugoslav amendment; social assistance might be regarded as similar to the social welfare mentioned in the French amendment, but the latter was a much broader concept. In some countries the term social assistance had limits very closely defined in law. It might be that there was a difference in significance and scope between "social security" in English and "sécurité sociale" in French; the concept seemed to be broader in English, but as had been said, its limits were somewhat vague. In any case, he agreed with previous speakers that it would be unwise to include an enumeration such as that proposed in the first Yugoslav amendment. Social security should be defined comprehensively or not at all. The Commission could not undertake such a technical task; it was for the ILO to do so. The Yugoslav text omitted to mention family allowances, old age assistance and other

forms of social security; an incomplete list must always be restrictive. The same was true of the reference only to social insurance in the USSR amendment; social insurance was, in any case, included in social security, even from the administrative point of view, in many countries.

The USSR representative had assured the Commission that his second amendment did not mean that he wished all countries to model their systems on that existing in his own country. But it was necessary to read between the lines. The second USSR amendment was in fact tantamount to a condemnation of systems in which the workers paid contributions. He was not sure that the trade unions in France would accept that proposal, for doctrinal and political reasons. The fact that trade union members contributed to the social security fund was one of the justifications of their participation in the management of that fund. The USSR proposal was, in fact, somewhat shortsighted. If it was adopted, it might well be the workers who would actually bear the main brunt of the social security system, as it would have to be financed to a much greater extent by taxation, probably by indirect taxation which was borne, in the last analysis, by the consumer. In France social security schemes were financed in a number of different ways and had, on the whole, proved eminently satisfactory. It would be dangerous to embody in an international instrument an article making obligatory a method of financing suitable only for some countries.

He must take issue with the statistics concerning France cited by the representative of the WFTU. The figures for the absolute minimum living wage had been calculated by the trade unions, especially by one particular confederation and were open to both quantitative and qualitative criticism. The estimates of quantities had been exaggerated; moreover, those quantities were in many cases based on the highest market prices. On the other hand, the figure for the average pension for the aged had been taken from the form of assistance paid when no more advantageous assistance was available, which was naturally the lowest rate. Taking those two extreme figures, the trade union confederation concerned had extrapolated them and made the generalization cited by the representative of the WFTU. No mention had been made nor any account taken of the hundreds of thousands of railway workers, civil servants, local authorities' employees, miners and, generally speaking, employees of nationalized enterprises, who enjoyed high benefits and often had their own mutual funds. A completely distorted picture of the average old age pensioner's situation had thus been given.

The meeting rose at 1 p.m.