GENERAL

E/CN.4/SR.151
19 April 1950

ORIGINAL: ENGLISH

UNITED NATIONS

ECONOMIC AND SOCIAL COUNCIL

COMMISSION ON HUMAN RIGHTS

Sixth Session

SUMMARY RECORD OF THE HUNDRED AND FIFTY-FIRST MEETING

Held at Lake Success, New York,
on Monday, 10 April 1950, at 2.30 p.m.

CONTENTS:

Draft international covenant on human rights (E/1371, E/CN.4/365, E/CN.4/353/Add.10, E/CN.4/412) (continued)

Article 11 (continued)

Chairman: Mrs. F. D. ROOSEVELT United States of America

Members:

Mr. WHITLAM	Australia
Mr. STEYAERT	Belgium
Mr. VALENZUELA	Chile
Mr. CHANG	China
Mr. SORENSON	Denmark
Mr. RAMADAN	Egypt
Mr. ORDONNEAU	France
Mr. KYROU	Greece
Mrs. MEHTA	India
Mr. MALIK	Lebanon
Mr. MENDEZ	Philippines
Miss BOWIE	United Kingdom of Great Britain and Northern Ireland
Mr. ORIBE	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Also present: Mrs. CASTILLO-LEDON Commission on the Status of Women

Representative of a specialized agency:

Mr. ARNALDO — United Nations Educational, Scientific and Cultural Organization (UNESCO)

Representatives of non-governmental organizations:

Category A:

Miss SENDER — International Confederation of Free Trade Unions (ICFTU)

On register:

Mrs. FOX	World's Young Women's Christian Association
Mr. BEER	International League for the Rights of Man
Mr. NOLDE, Mrs. NOLDE	Commission of Churches on International Affairs
Mrs. FREEMAN	International Council of Women
Miss TOMLINSON	International Federation of Business and Professional Women
Miss ROBB	International Federation of University Women

Secretariat:

Mr. HUMPHREY	Director of the Division of Human Rights
Mr. LIN MOUSHENG	Secretary of the Commission

/DRAFT

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS (E/1371, E/CN.4/365, E/CN.4/353/Add.10, E/CN.4/412) (continued)

Article 11 (continued)

1. Mr. ORIBE (Uruguay) pointed out that article 11 embraced two aspects of liberty of movement: that within the borders of each State and that across national frontiers, in the same way as that right had been stated in the Universal Declaration of Human Rights. It was impossible to maintain, as other speakers had done, that those were not fundamental human rights. He could not emphasize too strongly that the rights of the individual would be very seriously diminished if he were not able to reside at the place most suited to what he considered his needs and to leave his country and settle in any other, as he deemed fit.

2. As a representative of an American country, he must emphasize that the whole of the modern history of the Americas had been the result of international recognition of the basic right to liberty of movement. North and South America had both been settled in their existing form by masses of immigrants, most of whom had emigrated on their own initiative. Had that right not received at least tacit recognition, America and Australia would still be peopled only by aborigines and very little social development would have taken place.

3. Apart from that historic fact, liberty of movement had always been a basic principle in the thinking and legislation of the American States. It had been clearly stated by Spanish scholars at the time of the Conquest, particularly by Francisco de Victoria. The Spanish laws of the sixteenth century, recognizing the right of all persons to leave their country and settle in another, had been one of the greatest achievements in the fight for freedom. That tradition had been in force continuously since its original statement by Francisco de Victoria and was firmly maintained in the Americas. It was Colombia, an American State, which had submitted the original draft for article 13 of the Declaration. The Commission should not, therefore, take any step backward from the Declaration, which had been approved by the General Assembly.

4. The article should therefore be retained, but the form in which it had been drafted by the Commission was perhaps not the most satisfactory possible, as the comments of Governments tended to show. That might be merely a problem of drafting. The origin of the difficulty might be that article 11 differed in form from articles 5 and 9, in which a general right was first stated and

/subsequently

subsequently qualified. He was in general agreement with the comment of the Netherlands Government (E/CN.4/365, page 35), because a State would be adequately safeguarded by preventing a person from leaving its territory if by so doing he would be avoiding obligations resulting from laws of that State. The individual's right should be protected by the provision that restrictions on emigration must be put in the form of domestic legislation and such legislation must be in accord with principles of international law, the Charter of the United Nations and the Declaration of Human Rights. Although such laws must be consistent with the other provisions of the covenant, in his opinion, the reference merely to the covenant was far from adequate. There appeared to be no other article in the draft covenant besides article 11 itself -- with the possible exception of article 20 -- to which the relevant reference could be made. He proposed, therefore, that the Netherlands suggestion should be amended to read "consistent with the principles of the Charter of the United Nations and of the Universal Declaration of Human Rights", and that that amended text should be substituted for the original text of paragraph 1.

5. Mr. RAMADAN (Egypt) was in favour of the retention of paragraph 1, amended in the manner proposed by the Uruguayan representative. The State should be able to decide what limitations could be imposed on the liberty of movement, but such limitations should be consistent with the principles of the Declaration.

6. He would support the French amendment (E/CN.4/365, page 35) to paragraph 2.

7. Mr. MALIK (Lebanon) maintained the view which he had expressed at the previous meeting, but, on reflection, might be prepared to support the Netherlands suggestion as formally submitted by the Indian delegation (E/CN.4/412). The Indian amendment had, however, the disadvantage of broadening the limitations on the right to liberty of movement in that it gave the State greater powers to extend such limitations than was conferred by the original text and the United States amendment (E/CN.4/365, page 34). It might, however, be necessary to accept the Indian text in order to meet the objections raised by the Australian and United Kingdom representatives.

/8. The Commission

8. The Commission must take into account the fact that article 11 was not the only article which would require a general statement of limitations. The United States delegation had attempted to employ the same wording for all such articles. That idea might be basically sound, but it might be found that such articles fell into various categories and that a distinction might have to be made for certain articles, such as those dealing with the liberty of expression or religion, in which general limitations would be required by the nature of the case. It seemed, therefore, that whatever wording was adopted must necessarily be subject to subsequent reconsideration in the light of the form in which subsequent articles were adopted. He would support the Indian amendment, therefore, subject to that reservation.

9. He must, however, acknowledge the pertinence of the United States objection to the Indian amendment on the grounds that it might interfere with private practices, an interference which the Commission did not intend. On the other hand, if safeguards only against governmental interference were adopted, as the United States delegation desired, the whole field of private encroachment on the liberty of movement would be open to all sorts of practices.

10. The United States amendment appeared to be too restrictive, but the Indian amendment went too far in the other direction; a middle way ought to be found. The problem appeared to be mainly one of drafting.

11. He supported the Indian amendment (E/CN.4/412) to the United States amendment to sub-paragraph (a) of paragraph 1, because it would be preferable to run the risk of making limitation unduly broad rather than to state it too specifically.

12. Miss BOWIE (United Kingdom) observed that the Commission seemed to agree that liberty of movement was a fundamental right, but was finding great difficulty in adequately defining it. She could not support the Netherlands suggestion and the Indian amendment because the only relevant definition of a right in the draft covenant was that in article 20, prohibiting discrimination. The Uruguayan proposal was no improvement, because the only relevant article of the Declaration was the similar one prohibiting discrimination.

/13. The problem

13. The problem was too complex for solution at that stage. Her delegation had therefore proposed the deletion of article 11; but it must be clearly understood that it did not propose that that right should never be stated. It should most certainly be stated, but in a later covenant or convention. She could not agree with the Uruguayan representative that the deletion of article 11 would be a step backward; the Commission had agreed at its fifth session that some rights stated in the Declaration could not be included in the first covenant.

14. Mr. CHANG (China) thought that the substance of article 11 ought to be embodied in the covenant under discussion, despite the difficulty of drafting it satisfactorily. The principle could be adopted at that stage, but it might be necessary to postpone the decision on the wording until the second reading. The right of liberty of movement was a very important one, particularly for peoples who had not previously enjoyed it.

15. He agreed with the Lebanese representative that the form of the article required further consideration. He felt that the wording of the limitations should be similar in all articles requiring them and that the general principle should be stated before the limitations. That would, however, have to be decided finally in the light of the decisions taken upon subsequent articles.

16. He could not accept the words "free from governmental interference in", which were in the United States amendment (E/CN.4/365, page 34). All laws were a form of governmental interference, even though they were enacted in the interests of the majority of the people. If the interference occurred in circumstances not governed by a law, it must be assumed to be arbitrary, while if it was under the law, the Commission would be seeming to challenge the law, and that would be undesirable.

17. Mr. WHITLAM (Australia) thought that the discussion had provided grounds for reaffirming the view of his Government (E/CN.4/353/Add.10, page 9) that it might be better to defer to a later convention the inclusion of articles similar to draft article 11. He had, however, been impressed by the arguments of the Uruguayan and Chilean representatives to the effect that the deletion of article 11 and the failure to state the right to liberty of movement would create a very deplorable effect on public opinion, particularly in the under-developed countries.

/18. The Uruguayan

18. The Uruguayan representative had stressed the significance of liberty of movement to the Americas, but it must be remembered that the liberty of movement so characteristic of the period of the Spanish Conquest had been the freedom of a dominant race. In the modern world racial domination must be regarded as an outworn concept; otherwise, the whole Declaration of Human Rights would be meaningless. It was true, however, that certain tensions existed in contemporary society and that certain elements still retained to some extent a privileged position. The contemporary aim was assimilation, but that would be a long process. The tensions to which he had referred would create opportunities for all kinds of undesirable agitation, so that controls would be necessary in the interest of peace and the maintenance of public order.

19. Moreover, the Commission must take into account the growth of a spirit of trusteeship and the development of a more humanitarian attitude towards the under-developed countries. The conquest of continents had formerly been characterized by ruthless action and the excess of individual initiative. His Government believed that the development from the laissez-faire concept to the spirit of trusteeship must be carried through with the greatest care and with the fullest consideration; and that would take time. He was, therefore, suggesting that the Commission should immediately consider the deletion of article 11 from the current covenant but only on the distinct understanding that its inclusion in a later covenant would receive full consideration. The Commission could not allow it to be thought that it was disregarding a fundamental right.

20. If, however, the article was retained, he was inclined to support the Netherlands suggestion, since it would be preferable that the covenant should be more flexible than might be strictly necessary rather than excessively restrictive.

21. The CHAIRMAN, speaking as representative of the United States, said that, although she preferred the United States amendment to the introductory sentence of paragraph 1, she would vote for the Indian amendment, as the vote on it would be taken first; both amendments were to be preferred to the original text

22. She could not accept the Uruguayan amendment, because the provisions of the Declaration were not specific enough for reference to be made to them in an instrument under which national laws might be enacted.

/23. The phrase

23. The phrase "legally within the territory of a State" in the United States amendment to sub-paragraph (a) (E/CN.4/365) had been inserted, not in order to alter the substance of the original draft in any way, but in order to meet the objection that that draft was so ambiguously worded that it might be construed as guaranteeing freedom of movement across national frontiers without due regard to immigration regulations. That had never been the Commission's intention.

24. The phrase "free from governmental interference" had been included because governments would have to become completely paternalistic if they went beyond their already considerable interference with private activities. In the United States, for example, it was currently thought that the Government should not disciminate between the tenants of governmental housing projects; if that development were extended further, to cover privately owned real estate, the government would be forced to take direct control over the whole field of rental housing. Considering the present state of domestic law, international law should not be expected to take such a long stride forward.

25. The United States delegation was strongly opposed to granting the right of liberty of movement "subject to any general law," as suggested by the Netherlands Government; such a general law might abrogate that right entirely.

26. The French amendment to paragraph 2 was equally open to objection; the exception was far too broad.

27. The Philippine suggestion that the exception in paragraph 1 should be deleted seemed to be based upon a misunderstanding. The Philippine Government appeared to have thought that no limitations were stipulated in the Declaration, whereas article 29 of that document provided a general limitation on the right of liberty of movement.

28. Mrs. MEHTA (India) had been glad to note a general trend in favour of retaining the substance of article 11 in the draft covenant. It was difficult to draft suitably, but the mere fact that article 11 had been drafted and included in the draft covenant showed that the difficulties were not insurmountable. Her delegation could have accepted article 11 as currently drafted. The Danish and other delegations had, however, expressed apprehension about the drafting of the article and the Indian delegation had thought that it would be wiser in the circumstances to use the formula suggested by the Netherlands; hence the Indian amendment to paragraph 1 (E/CN.4/412).

/29. The Indian

29. The Indian delegation was also ready to support the United States amendment to paragraph 1 (a) (E/CN.4/365 page 34), provided that the words "be free from governmental interference in" were deleted therefrom. That deletion was being suggested because it was the function of Governments not only to refrain from violating the rights in question but also to defend and protect those rights, and not to allow any practice inconsistent therewith. She did not think that the matter was fully covered by article 20 of the draft covenant.

30. Mr. JEVREMOVIC (Yugoslavia) also felt that the draft covenant should contain the substance of article 11. He regarded the Netherlands suggestion, which the Indian delegation had moved as an amendment to the article, as desirable and stated that his delegation would support it. The amendment would in effect limit the rights of Governments and thus the chances of abuse. He could not agree with the Lebanese representative that the Indian amendment allowed Governments wider latitude than did the original wording of the paragraph.

31. Without making a definite proposal, his delegation would invite the Commission seriously to consider the Uruguayan representative's suggestion to make a reference to the Universal Declaration of Human Rights and the United Nations Charter in paragraph 1.

32. Mr. ORDONNEAU (France) feared that the Indian amendment did not meet the requirements of the situation. It referred to the "rights defined in this Covenant" but the trouble was that the draft covenant, with the exception of article 11 itself and possibly of article 20, had little or nothing to say about the right to free movement. If the Commission felt that something should be said about that matter, it should be on the basis of the Charter and the Universal Declaration of Human Rights, as suggested by Uruguay. His delegation could support a text including a reference to those two documents. It could not, however, support a text simply referring to the rights defined in the draft covenant.

33. He was opposed to the United States amendment to paragraph 1 (a) in so far as the words "be free from governmental interference in" were concerned. Those words referred to only one aspect of the problem and, at that, to an aspect that was becoming relatively less important. A person's freedom of movement was threatened not only by the State, but also by private individuals.

/As had

As had been stated by the Indian representative, a State must both refrain from violating the rights in question and, on the positive side, must guarantee and enforce those rights. The United States proposal failed to deal with the latter aspect of the matter. He would, therefore, vote for the deletion of the words in question, such deletion having been suggested by the Indian representative.

34. The United States representative had stated that the French amendment to paragraph 2 (E/CN.4/365, page 35) was not really a guarantee because it would be possible under it to deprive a person by law of the very right conferred upon him in the first part of the amendment. But the law was not free to do as it pleased; the law must itself be just and, as had been stated by the representative of Uruguay, must be in keeping with the spirit of the Universal Declaration of Human Rights and the Charter. It was true that the French amendment would circumscribe the right in question, but to do so would appear to be the lesser of two evils. Paragraph 2, with the wording suggested by the French delegation, would be similar in structure to paragraph 1 as currently drafted. It should, however, be kept in mind that the substance of paragraph 2 was much narrower in scope and less drastic in its possible consequences to a person concerned than that of paragraph 1; a person deprived of the right to return to the country of which he was a national had, after all, the rest of the world in which to move and choose a residence, whereas the person deprived of the right to liberty of movement, of choosing his residence within the borders of a State and of leaving a country, including his own, was in a far more serious predicament. If that were kept in mind, it would not seem so wrong to limit the rights dealt with in paragraph 2 rather more than those dealt with in paragraph 1.

35. Mr. ORIBE (Uruguay) wished to clarify the position of his delegation on a number of points.

36. His delegation had moved no amendment, but had merely made a suggestion that a reference to the Universal Declaration of Human Rights and the Charter should appear in paragraph 1. The United States representative had been doubtful of the wisdom of inserting such a reference because the Declaration was not drafted in legally precise terms. He would reply that a number of articles of the draft covenant, as currently worded, would in fact refer to the Declaration, for example the preamble, articles 1, 22 and 5. The very spirit of the

/entire draft

entire draft covenant was in accord with the principles enunciated in the Declaration which in turn were derived from the Charter of the United Nations. There was thus an unbroken chain from the Charter to the draft covenant. That fact had motivated his delegation in making the suggestion.

37. He entirely agreed with the French representative that the word "law" as used in the draft covenant must be interpreted as meaning a just law, a law in consonance with international law and the Charter of the United Nations.

38. The United Kingdom delegation had suggested that article 11 should be omitted from the draft covenant because it was not necessary that each and every right should be mentioned therein. While he could agree with that view, he was opposed to the United Kingdom statement in document E/CN.4/365, page 34, because it said that it was "doubtful whether freedom of movement and free choice of residence can properly be regarded as fundamental human rights". His delegation did not think that there could be any such doubt. He agreed that it was difficult to draft the article in question properly, and would not necessarily be opposed to its exclusion from the present draft covenant, but not on any grounds implying that the rights concerned were anything but fundamental.

39. He feared that the Australian representative might have misunderstood his delegation's reference to the emphasis long placed upon the principle of free movement in the Americas. Mr. Oribe had quoted the eminent sixteenth century lawyer, Francisco de Victoria. The point he had been trying to make had had nothing to do with racial or other superiority, none of which could justify the conquest of other peoples. What he had been trying to make clear was that the historical events of the sixteenth century would have been impossible if the right to freedom of movement had not been recognized in Spanish law at that time.

40. The CHAIRMAN declared the debate closed. The United Kingdom suggestion that article 11 should be deleted from the draft covenant presented a certain procedural difficulty. According to the Legal Department of the Secretariat, a motion such as that of the United Kingdom could be construed in one of two ways: (1) if it were considered only in relation to article 11 it could not be regarded as an amendment within the meaning of rule 60 of the rules of procedure; and the only way in which the United Kingdom could give effect to its suggestion in that case would be by voting against the article as a whole when it was

/put to

put to the vote; (2) if, however, the United Kingdom suggestion were considered with reference to the draft covenant as a whole it could, according to the Legal Department of the Secretariat, be dealt with as an amendment. She would rule that the United Kingdom motion should be considered under the latter head and voted upon first, but she would be glad to have that ruling challenged by any member of the Commission who favoured dealing with the United Kingdom suggestion in accordance with the former alternative.

41. Mr. SORENSON (Denmark) stated that he would not know how to vote on article 11 as a whole until a decision had been taken on the Indian amendment to paragraph 1. If that amendment were adopted, he could vote for the article; otherwise he would vote for the United Kingdom proposal. In the circumstances, he suggested that the order of voting should be reversed.

42. The CHAIRMAN submitted her ruling to the vote.

The Chairman's ruling was upheld by 4 votes to 3, with 5 abstentions.

43. Mr. ORIBE (Uruguay) concluded from the debate and from the all but even division of the votes that it would be useful to suspend the discussion on article 11 at the present time and to defer further consideration thereof until the next meeting. He suggested that the Commission should reopen consideration of article 5.

The motion for suspension of consideration of article 11 until the next meeting was rejected by 6 votes to 2, with 6 abstentions.

44. Miss BOWIE (United Kingdom) wished to make it clear that her delegation was not suggesting the perpetual deletion of the substance of article 11: it was suggesting that the article should be deleted from the present draft covenant, with the thought that it could be included in a later covenant.

The United Kingdom suggestion that article 11 should be deleted from the present draft covenant was rejected by 9 votes to 3, with 2 abstentions.

/45. Mr. MALIK

45. Mr. MALIK (Lebanon) said that he had voted against the deletion of article 11, but that he might have to vote against the article if it were not ultimately drafted in a satisfactory manner. It followed, he thought, that it would have been wiser to vote on the deletion of the article at the end rather than at the beginning, when the final form of the article was not yet known.

46. Mr. MENDEZ (Philippines) stated that his delegation could have supported the United States amendment to paragraph 1 if that amendment had included a reference to the Charter and the Universal Declaration of Human Rights. He noted that article 13 of the Declaration was limited by article 29, and added that such a limitation must be viewed in relation to the good faith of all concerned. Without good faith, a dictator could adhere to the Declaration or to the draft covenant. The amendment proposed by his delegation (E/CN.4/365, page 4) -- to substitute article 13 of the Universal Declaration of Human Rights for article 11, paragraph 1, of the draft covenant -- was likewise predicated upon the assumption of good faith.

The Philippine amendment was rejected by 8 votes to 1, with 4 abstentions.

The Indian amendment to paragraph 1 (E/CN.4/412) was adopted by 7 votes to 2, with 5 abstentions.

47. Mr. KYROU (Greece) inquired whether the United States delegation accepted the Indian amendment to the United States amendment to paragraph 1 (a).

48. The CHAIRMAN, speaking as United States representative, replied in the negative.

The Indian amendment (E/CN.4/412) to the United States amendment to paragraph 1 (a) (E/CN.4/365, page 34) was adopted by 7 votes to 3, with 4 abstentions.

The United States amendment, as amended, was adopted by 8 votes to 1, with 5 abstentions.

Paragraph 1 (b) as drafted (E/1371, page 20) was adopted by 12 votes to none with 2 abstentions.

49. Mr. WHITLAM (Australia) moved that paragraph 2 should be amended to read: "Everyone is free to return to his own country." He explained that the sentence had a wider meaning than either the original or the United States

/texts,

texts, which referred to nationals. Under the Australian amendment, not only nationals of a country, but persons who had established their home in the country without acquiring that country's nationality, would be permitted to return to it, as they were under Australian immigration laws.

50. Mr. MALIK (Lebanon) inquired whether the Australian representative would be prepared to replace the word "return" by the word "enter", which would meet the purposes of the United States amendment by allowing nationals of a country born abroad to enter that country.

51. Mr. CHANG (China) thought that the Australian and the United States amendments were not mutually exclusive, and could therefore be combined, possibly by adding the phrase "and to return to his own country" to the United States amendment.

52. Mr. WHITLAM (Australia) was unable to accept those suggestions. The use of the word "enter" would imply that the persons concerned were nationals of the country they wished to enter, whereas the Australian amendment was designed precisely to cover the case of persons who had long resided in a country and might be said to have settled there, although they might still retain the nationality of some other country. His primary concern was to enable them to return from a journey abroad to what had in effect become their country. The original right to "enter" was not involved in the Australian idea; the persons must have lived there, gone away, and wish to return.

53. Mr. VALENZUELA (Chile) agreed with the Australian representative that the category of persons he had described should be permitted to return to the country in which they had established their homes, but wished the provision to be so drafted as to permit nationals of a country to enter it as well. A number of countries, including his own, gave entry to nationals born abroad. He therefore hoped that the word "return" in the Australian amendment could be replaced by some verb of wider meaning, which would cover all the categories in question.

/54. Mr. MENDEZ

54. Mr. MENDEZ (Philippines) preferred the United States amendment, under which persons who wished to clear themselves of charges against them would be free to enter the country of which they were nationals.

55. Mr. SORENSON (Denmark) thought that the rights contained in the Australian immigration laws to which reference had been made were safeguarded under article 12. He pointed out that, as that article dealt with conditions under which aliens might be expelled, the Australian amendment, which provided for return of aliens, appeared to conflict with it.

56. Mr. WHITLAM (Australia) did not think that there was any direct opposition between the two. Both the Australian amendment and article 12 sought to regulate two aspects of the same question. For his part, he was fully prepared to accept the provision of article 12, that any alien admitted to a country under the Australian amendment could be expelled from it only according to procedure provided by law.

57. In reply to the Chilean representative, he said that his instructions from his Government were only to press for a provision permitting the return of non-nationals to the country in which they had settled. He would be prepared to consider the question of nationals at the second reading.

58. The CHAIRMAN, speaking as United States representative, remarked that her own country did not grant permission to return as a matter of right to persons who were not its nationals. The Australian amendment was more in the nature of an immigration law than of an article intended for the draft covenant, and was too loosely drafted; the United States regarded the test of nationality as essential.

59. Mr. KYROU (Greece) agreed with the Chairman. The result of the Australian amendment might be to oblige countries to admit persons of foreign nationality who claimed the right to enter by virtue of their extraction; such a situation would surely be unjust.

60. Miss BOWIE (United Kingdom) drew attention to the fact that the text of the French amendment to paragraph 2 (E/CN.4/365) had been mistranslated. A more accurate rendering of the final clause might be: "unless he is debarred from doing so by virtue of a provision of law."

/61. Mr. MALIK

61. Mr. MALIK (Lebanon) observed that the new language of the French amendment was so sweeping and general as to open the door wide to abuses. Arbitrary laws might be passed to prevent what were considered undesirable elements from entering the country. That was surely not the French representative's intention.

62. Mr. ORDONNEAU (France) replied that his intention had been to reserve the possibility of lawful exile. To meet the point of the Lebanese representative, he replaced the text of his amendment by language taken from article 9 of the Universal Declaration of Human Rights: "No one shall be subjected to arbitrary exile." The new amendment could become the second sentence of paragraph 2, to follow whatever text was adopted for the first sentence.

63. Mr. MALIK (Lebanon) was prepared to support the new French amendment, which resolved all his difficulties.

64. Mr. MENDEZ (Philippines) remarked that it was far from clear where people could be exiled to. To encourage the practice of exile would seem only to add to existing international tension.

65. Mr. ORDONNEAU (France) replied that the nations which had voted to include that very text in the Declaration must have found it unexceptionable.

66. The CHAIRMAN invited the Commission to vote on the texts before it.

The Australian amendment to paragraph 2 was rejected by 7 votes to 6, with 1 abstention.

The United States amendment to paragraph 2 was adopted by 9 votes to none, with 5 abstentions.

The additional sentence proposed by the French representative was adopted by 11 votes to none, with 3 abstentions.

Article 11 as a whole, as amended, was adopted by 10 votes to 1, with 3 abstentions.

/67. Mr. ORDONNEAU

67. Mr. ORDONNEAU (France) said in explanation of his vote that he had opposed the Indian amendment to paragraph 1 because he had found the reference to the covenant inadequate and would have preferred a reference to the Charter and the Declaration of Human Rights. He had abstained from voting on the article as a whole in the hope that the question would be reconsidered at the second reading and that the text of the article would be improved.

68. Mr. MALIK (Lebanon) explained that he had voted for the article because he approved of its contents with the exception of the introductory clause to paragraph 1. At some point the Commission would have to consider all the articles which contained limitation clauses and decide whether or not the latter should be couched in similar language. His vote was therefore subject to that decision.

69. The CHAIRMAN remarked that the United States delegation also hoped the Commission would review its decision with respect to the reference to governmental interference in paragraph 1 of the article.

70. Mr. ORIBE (Uruguay) recalled that he had voted to maintain that reference because in his view protection from action by individuals was sufficiently guaranteed in article 2 of the draft covenant. With respect to article 11 as a whole, he wished to make the same reservation as the Lebanese representative. Both the form and the content of the article were open to criticism, and he hoped they would be improved on second reading.

71. Mr. WHITLAM (Australia) had supported the Indian amendment, but as a second best; a firmer provision was required in the introductory clause of paragraph 1. The reference to freedom from governmental interference should, he felt, be given consideration at the second reading; and the word "arbitrary" in the sentence added by the French representative seemed vague, and might call for further thought. While the principles underlying the article were fully acceptable, the text needed improvement. For all those reasons, he had abstained from voting on the article as a whole.

/72. Mr. JEVREMOVIC

72. Mr. JEVREMOVIC (Yugoslavia) explained that he had abstained from voting on the article as a whole because he felt that there should be a reference to the Charter and the Declaration in paragraph 1. It was the view of his delegation that such a reference was required in a number of articles, such as article 5.

The meeting rose at 5.25 p.m.