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SUMMARY RECORD OF THE THREE HUNDRED AND TWENTY-FIFTH MEETING

held at Headquarters, New York,
on Friday, 6 June 1952, at 10 a.m.

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<u>Chairman:</u>	Mr. MALIK	(Lebanon)
<u>Rapporteur:</u>	Mr. WHITLAM	Australia
<u>Members:</u>	Mr. NIJOT	Belgium
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	Mr. CHENG PAOHAN	China
	Mr. GINDIGAL	Egypt
	Mr. CASSIN	France

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Mr. KAPGAMBELIS } Mr. KYROU }	Greece
Mrs. NEHTA	India
Mr. AZKOU	Lebanon
Mr. WAHEED	Pakistan
Mr. BORATYNSKI	Poland
Mrs. RÖSSEL	Sweden
Mr. KOVALENKO	Ukrainian Soviet Socialist Republic
Mr. MDROZOV	Union of Soviet Socialist Republics
Mr. HOARE	United Kingdom of Great Britain and Northern Ireland
Mrs. ROOSEVELT	United States of America
Mr. BRACCO	Uruguay
Mr. JEVREMOVIC	Yugoslavia

Also present: Miss HARAS Commission on the Status of Women

Representatives of non-governmental organizations:

Category A:

Mr. LEARY	International Confederation of Free Trade Unions (ICFTU)
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Category B:

Mrs. de BROECK	Catholic International Union for Social Service
Mr. NOLDE	Commission of the Churches on International Affairs
Mr. MOSKOWITZ	Consultative Council of Jewish Organizations
Mrs. PARSONS	International Council of Women
Mrs. SOUDAN	International Federation of Business and Professional Women
Mrs. PHILLIPS	Liaison Committee of Women's International Organizations
Mr. JACOBY	World Jewish Congress
Mr. FENCE	World's Alliance of Young Men's Christian Associations
Mr. RONALDS } Mrs. POLSTEIN }	World Union for Progressive Judaism

/Secretariat:

Secretariat:

Mr. SCHMELB	Representing the Secretary-General
Mr. DAS)	Secretaries of the Commission
Miss KITCHEN)	

DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION:
PART II OF THE DRAFT COVENANT CONTAINED IN THE REPORT OF THE SEVENTH SESSION
OF THE COMMISSION (E/1972, annex I and annex III, section A, E/CN.4/522,
E/CN.4/523/Add.1, E/CN.4/L.126, E/CN.4/L.145, E/CN.4/L.146, E/CN.4/L.201,
E/CN.4/L.202, E/CN.4/L.203) (continued)

Chilean delegation's amendment to article 15

Mr. SANTA CRUZ (Chile) asked whether it was in order for his delegation to submit an amendment (E/CN.4/L.137) to article 15.

The CHAIRMAN replied that, in the absence of any objection, the submission was in order.

Articles 15 and 16

Mr. MROZOV (Union of Soviet Socialist Republics) said that since the USSR amendment (E/CN.4/L.126) proposed the replacement of articles 15 and 16 by a single text and since the two articles were very closely connected in form and in substance, he thought that the Commission should discuss both articles together.

The CHAIRMAN agreed with that suggestion.

Mr. MROZOV (Union of Soviet Socialist Republics) said that his delegation had no objection to the original text of articles 15 and 16 save that they did not go far enough and that the limitations set forth in them were too stringent. The USSR delegation had therefore submitted an amendment (E/CN.4/L.126) to both articles. The right of assembly had been specified in greater detail so as to cover street processions besides meetings in buildings and it was stated specifically that the right should be guaranteed by law, whereas the original text merely said that the right was recognized.

/There was . . .

There was no need to dwell on the reasons for the proposed change, as the USSR delegation had expounded its views on that head fully during the debate on article 14. The restriction in the USSR amendment was simply the denial of the enjoyment of the rights of assembly and association to fascist and anti-democratic organizations, which could not be allowed to assemble and associate for the purpose of overthrowing democracy. Undoubtedly those who were going to oppose the USSR amendment would raise the question of who would judge whether an organization was fascist or anti-democratic, as it was hardly likely that any member would claim that such organizations, threatening as they did international peace and security, should be allowed to exist. The reply to that question was simple enough: the government which signed the covenant. There might well be disagreement whether any particular organization was or was not fascist; but that did not affect the general principle involved. The controversial exceptions would not be numerous. If the USSR amendment was adopted, the organizations which were not fascist or anti-democratic would have greater freedom than they would have under the original text.

Mr. EDARE (United Kingdom) said that his delegation's amendments (E/CN.4/L.145, E/CN.4/L.146) included some changes which were proposed to both articles in the interest of uniformity of wording. The proposed insertion of the phrase "public safety" was particularly relevant in connexion with the right of assembly since it meant the protection of the public from such dangers as fire hazards and thus had a narrower and more technical meaning than the term "national security". The proposed phrase "for the prevention of disorder" was also very relevant in article 15, more so than in connexion with any other article, since it conveyed precisely the narrow limitation required to cover situations in which a meeting degenerated into a riot. In that particular context the expression "ordre public", which he took to mean a legal concept very close to the English "public policy", was far too broad, since it would enable a government to justify the prohibition of any assembly it thought undesirable. The use of the expression "for the prevention of disorder" in article 15 might, indeed, be considered a test case of its validity and merits. A specific reference to trade union rights (E/CN.4/L.146) must be included in article 16 because there was a statement of those rights in the draft covenant on economic, social and cultural rights, and so its omission from the draft

/covenant

covenant on civil and political rights might convey the impression that the Commission did not regard it as a civil right as well. The limitation proposed as an addition to paragraph 2 of article 16 (E/CH.4/L.146) was required because of the stipulation, proposed for paragraph 1, of the right to form and join trade unions for the protection of the individual's interests implied not merely a formal right to organize but the right to act. Special problems arose in the case of members of the armed forces, of the police and of the administration of the State, particularly with regard to the right to strike. That did not imply that such persons should be totally excluded from the enjoyment and exercise of the right of association, but it should in all honesty be recognized that in nearly all countries certain limitations were imposed in those particular cases.

He could not accept the USSR amendment (E/CH.4/L.136) to articles 15 and 16. The right of assembly differed in important respects from the right of association and the two should not be merged in one article. Nor could he accept the stipulation that the right must be guaranteed by law, since the Commission would almost certainly adopt a general clause for the draft covenant on civil and political rights in terms of the text of article 1 embodying a phrase which would make the inclusion of a further guarantee both unnecessary and undesirable in articles 15 and 16. The words "by law" would be undesirable because it should be left to the State under a multilateral agreement of that nature to decide whether the measures necessary to comply with the obligations should be legislative, administrative or of some other nature. He could not agree, furthermore, that the only question that arose in connection with the second sentence in the USSR amendment (E/CH.4/L.136) was who should judge whether an organization was fascist or anti-democratic. The real question was how much freedom of expression unpopular or dissident groups should be permitted to enjoy. In the United Kingdom no responsible person would dream of proposing the suppression of the right of association and assembly merely on the ground that a group held fascist or anti-democratic opinions; if such groups became a threat to the democratic way of life, there were means to deal with them. In the United Kingdom everyone was free to advocate anything he thought fit, provided, naturally, that he observed the ordinary law and did not indulge in subversive activities; if he did, the limitation expressed by the phrase "in the interests of national security" would come into play. Even the most undesirable opinions could be freely ventilated. Furthermore, it was not only difficult to see precisely what the terms "fascist" and "anti-democratic"

/really

really meant, but they savoured dangerously of mere political abuse, hardly a satisfactory basis for what was intended as a legal text.

Mrs. MEHTA (India) said that her delegation had submitted amendments (E/1992, annex III, section A) simply in the interests of the uniformity of wording and had added the qualification "and without arms" in article 15 because that would be in line with Indian law and completed the idea implicit in the word "peaceably".

Mr. CASSIN (France) was not in favour of combining articles 15 and 16. That might be feasible if all the limitations were to be the same, but article 16 required a specific reference to trade union rights and their limitations. He could not support the United Kingdom, USSR or Indian amendments, but preferred the original texts amended in conformity with the texts of the relevant parts of the draft covenant on economic, social and cultural rights. The United Kingdom proposal to include the words "for the prevention of disorder" did not take into account the possibility of the infringement of the rights of others; it should not, for example, be permissible for people to assemble on someone's property without his consent, whereas, in French at any rate, the phrase "the prevention of disorder" merely covered the prevention of street rioting or the interruption of traffic. The limitations in the United Kingdom amendments were too restrictive, whereas in the USSR amendment they were inadequate. Furthermore, the restriction in the USSR amendment (E/CN.4/L.126) was unacceptable, since "fascist" could not be properly defined and the restriction placed upon "anti-democratic" organizations was better conveyed by such a phrase as the protection of "ordre public". The Indian amendment (E/1992, annex III, section A) was not acceptable because the rights of assembly and association were collective as well as individual rights, so that, despite the wording of Article 20 of the Universal Declaration of Human Rights, the original text of articles 15 and 16 of the draft covenant was preferable.

Mrs. ROOSEVELT (United States of America) said that her delegation was on the whole satisfied with the original text, but could accept the United Kingdom delegation's drafting amendment (E/CN.4/L.145, E/CN.4/L.146) to substitute the words "in the interests of" for "to ensure". As she had already proposed in connexion with articles 13 and 14, she would propose that
/the restrictions

the restrictions should be made permissive rather than mandatory by substituting the word "may" for "shall" in the second sentence of article 15 and in paragraph 2 of article 16. She opposed the insertion, proposed by the United Kingdom amendment, of the words "or crime" for the same reasons as her delegation had adduced in connexion with a similar amendment to article 14, and she could not accept the proposed additional sentence at the end of article 16, paragraph 2, since it was too detailed and also unnecessary. The Indian amendment (E/1992, annex III, section A) to paragraph 15 was undesirable; there should be no mandatory limitations on the right of assembly. Her delegation opposed the USSR amendment for exactly the same reasons as it had opposed a somewhat similar USSR amendment to article 14. At that time, the USSR representative had virtually admitted that he was not interested in the rights of minorities who opposed what the State regarded as desirable. The USSR amendment to articles 15 and 16 would limit the rights of association and assembly to those who supported the dictates of a ruling party. A similar provision written into the Peace Treaties with Bulgaria, Hungary and Rumania had subsequently been used as a pretext to suppress all organizations and parties other than the communist.

Mr. BOGATYKOWSKI (Poland) supported the USSR amendment for the same reasons as had led him to support a similar amendment to article 14, to prohibit the misuse of freedom of information to advocate discrimination and war. The USSR amendment to articles 15 and 16 placed no restrictions on organizations acting in the interests of democracy, but excluded fascist and anti-democratic organizations, since recent history had shown that such organizations endangered the community. The USSR representative had rightly said that it was for the State to judge what organizations were fascist or anti-democratic. Public opinion in most countries was only too well aware of their nature, so that it was most unlikely that the State would commit any serious errors or unjustly restrict the rights of minorities. If the USSR amendment was not adopted, all the other rights would be jeopardized by the growth of fascist organizations.

Mr. SANTA CRUZ (Chile) supported the original text (S/1972) and opposed most of the amendments. The two articles should not be merged, as proposed by the USSR delegation, because the rights of assembly and association differed and were guaranteed in different ways in most national constitutions. The separation had been accepted in the draft covenant on economic, social and cultural rights and a specific reference to trade union rights had been included. If that was repeated in the covenant on civil and political rights, the reference in the other covenants would be weakened. It was to be feared that the provision regarding trade union rights had been included in the United Kingdom amendment (E/CN.4/L.146) to article 16 because that delegation believed that the covenant on economic, social and cultural rights would not come into force. The Chilean delegation firmly believed that it should be put into force and still thought it possible that a single covenant might finally be drafted. The reference to trade union rights was not only unnecessary and confusing but the limitations proposed by the United Kingdom delegation were wholly unacceptable. The restrictions on the rights of assembly and association necessary in a democratic society and generally accepted in the constitutions of democratic countries should not be omitted, as they had been in the USSR amendment. The proposed exclusion of fascist and anti-democratic organizations was adequately covered by the limitations to ensure national security and the protection of the rights and freedoms of others. The wording of the original text was more precise, more intelligible and better adapted to the protection of human dignity and democracy. Of the United Kingdom amendments (S/CN.4/L.145) to article 15 he could accept the first two, but not the third. For reasons he had given on a previous occasion, he could support the United States representative's oral amendment for the alteration of the word "shall" to "may".

Mr. MORGAN (Union of Soviet Socialist Republics) said that although the United States delegation opposed the USSR proposal for articles 15 and 16 because of the restrictions it contained, that delegation supported the existing text of those two articles which included restrictions that were far more sweeping. The USSR proposal prohibited fascist or anti-democratic organizations only and left it to each State to define those terms according

to its own criteria and implement the provision as it wished. In his opinion such a specific limitation was preferable to the comprehensive limitations now contained in article 15 and 16.

He rejected the slanderous allegation of the United States representative that the provisions of the peace treaties had been used by Hungary, Romania and Bulgaria to outlaw all non-communist organizations. In fact the People's Democracies had used those provisions to stamp out anti-democratic and fascist organizations.

In his opinion, the United Kingdom position favouring freedom for fascist and anti-democratic organizations was regrettable and unjustified.

He could not accept the objection of the French representative to the proposal for combining articles 15 and 16. The USSR text called upon States only to undertake the obligations to prohibit anti-democratic and fascist organizations in principle and left each State free to decide which organizations were covered by that undertaking. It was therefore indefensible to claim that the USSR proposal provided excessive limitations when obviously the true reason for opposing that proposal was an unwillingness to prohibit fascist and anti-democratic organizations.

Mrs. MEHTA (India) said that she withdrew her amendment to article 15 which related to form rather than substance. The Indian delegation would support article 15 in its original form and would be unable to vote for any of the amendments to it.

It would, however, support the United Kingdom proposal relating to paragraph 1 of article 16 and the last sentence of paragraph 2 of the United Kingdom proposal relating to members of the armed forces, of the police, or of the administration of the State.

Mr. BRACCO (Uruguay) stated that in addition to the arguments of the Chilean representative against the USSR proposal, he would be unable to vote for that proposal because it would provide a basis for prohibiting any communist organizations or meetings on the grounds that they were anti-democratic. Without entering into the merits of communist or other organizations, he stressed the danger of making it possible to outlaw any organizations which opposed the policy of the government in power simply by labelling it as anti-democratic.

/Referring to

Referring to the last sentence of paragraph 2 of the United Kingdom proposal, he wished to make it clear that the position of Uruguay was that members of the armed forces, of the police, or of the administration of the State had the right to form and join trade unions. The only limitation on that right proposed by the Uruguayan delegation related to their right to strike.

In his opinion it was regrettable that the Indian representative had withdrawn her amendment to article 15 which was preferable in form to the existing text.

He would be unable to support the other United Kingdom amendments to articles 15 and 16 as he preferred the present text. The Uruguayan delegation would however request a separate vote in articles 15 and 16 on the words "national security, public order, the protection of health or morals" which it would oppose because it considered that the reference to "the protection of the rights and freedoms of others" adequately covered those restrictions.

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) expressed surprise at the tendency to underestimate the danger of fascism and to question its definition. The people of the world had learned the meaning of fascism from bitter experience and were unwilling to close their eyes to the menace it represented.

He considered it unnecessary to comment on the United Kingdom representative's boast that fascist organizations were free in his country. Moreover, he wished to make it clear that the representative of Uruguay had completely distorted the USSR proposal in claiming that it could be used as a basis for the suppression of communist organizations. It was significant that, under the guise of combating communism, the freedoms of the individual were being threatened in many countries of the world and militarism, reactionary policy and war were being fomented.

It was clear that the objections to the USSR proposal as limitative were unfounded and that the restrictions contained in articles 15 and 16 were broader and more dangerous since they could in effect nullify the rights in question. The present text would authorize prohibition of meetings and demonstrations for technical reasons such as interference with the free flow of traffic. The USSR proposal should therefore be adopted.

/Mr. AZKOUJ

Mr. ZEKOU (Lebanon) said that the Lebanese delegation would oppose the USSR proposal combining articles 15 and 16 because in its opinion that text stressed freedom of association unduly and thereby minimized the importance of freedom of assembly, a much broader right involving a far greater number of people.

Although the USSR text seemed less restrictive than the existing articles it actually authorized unlimited restriction. The provision for guarantee by law did not really strengthen the right because article 1 which the Commission had adopted committed signatory States to guarantee all the rights set forth in the covenant. While the USSR text contained fewer limitations in number than the existing text, it opened the door to broad restrictions based on indefinite and even contradictory interpretations leading to constant abuse. The Lebanese delegation considered that some limitations were essential but felt that they should be drafted as precisely as possible. The present text was preferable because it contained specific limitations with the exception of "public order" which he had always opposed as a vague concept.

He pointed out that the USSR text would not prohibit the State from acting against organizations other than those specified as fascist or anti-democratic. Moreover, he was certain that the U.S., like all other countries, imposed other limitations on freedom of assembly to protect, for example, public safety and health. Failure to specify those limitations might mean that they could be imposed at the discretion of States.

He wished to make it clear that his opposition to the USSR text prohibiting fascist or anti-democratic organizations should not be interpreted as meaning that he favoured such organizations but rather that he felt that the use of these terms would lead to abuse.

Mr. CASSIN (France) urged the Commission to include a reference to trade unions in the article on freedom of association because the legal form of trade unions made their inclusion in the covenant on civil and political rights essential.

He wished to make it clear that France did not underestimate the danger of fascism and that the French Government had taken steps to dissolve fascist organizations without even waiting for judicial decisions, but under the control of the Conseil d'Etat, which represented administrative jurisdiction. Rejection of the form of the USSR proposal was not motivated

by a pro-fascist position but rather by the fear of arbitrarily restricting freedom. If freedom of assembly and freedom of association were to be effectively safeguarded, it was essential to include a reference to public order and to democratic society.

Mr. MANSUR (Pakistan) said that despite the close link between articles 15 and 16, the rights which they set forth were so important that two separate articles were needed. Moreover, the form and scope of the limitation made two separate entities desirable. Freedom of assembly and freedom of association were fundamental to democracy and must be universally recognized subject only to the most necessary restrictions, such as those expressed in the existing text.

The delegation of Pakistan accepted the United Kingdom drafting changes with regard to article 15 (E/CN.4/L.145) which made the wording consistent with that of other articles. It also agreed, in the United Kingdom amendment to article 16 (E/CN.4/L.146), to the change in paragraph 1 and the first three proposals for paragraph 2. In connexion with the proposed addition at the end of that paragraph, the delegation of Pakistan concurred in the view that detailed limitations were inappropriate and that the existing text was adequate.

In view of its position in favour of keeping articles 15 and 16 separate, the delegation of Pakistan could not accept the USSR proposal merging the two articles. It was unable to support the expressions "in the interests of democracy" and "fascist or anti-democratic" because of the possibility of conflicting interpretations. He wished to stress, however, that his delegation had no fascist sympathies.

In the first sentence of the USSR proposal, he supported the extension of the right to organize assemblies to meetings, street processions and demonstrations and requested a separate vote on that part of the text, which he would support.

Mr. MOROZOV (Union of Soviet Socialist Republics) drew attention to a peculiar situation: with the sole exception of the United Kingdom representative, no one had objected to the prohibition of fascist or anti-democratic organizations.

yet all intended to vote against the provision to that effect in the USSR amendment (E/CH.4/L.125). The only possible conclusion was that the real motives for such a vote had not been disclosed.

The Uruguyan representative -- who had paradoxically sought to protect the Communist Party from the effects of the USSR amendment -- had spoken of what might happen if that amendment were misinterpreted or distorted; but the argument was invalid, since all the provisions in the covenant were open to the same danger, but the Commission had nevertheless thought it worthwhile to adopt them. The Lebanese representative had given examples of limitations which he considered necessary and which were not to be found in the USSR amendment. Such limitations were provided for in the domestic legislation of every country; but if the Lebanese representative seriously thought they were needed in the covenant, he could have proposed an addition to the USSR amendment instead of condemning that text. He earnestly appealed to all delegations to realize that a vote against the USSR amendment was a vote for fascism.

Mr. AZKOU (Lebanon) remarked that it was unfortunate that those who voted against certain provisions because they considered them ineffective should be accused of supporting what those provisions sought to prevent. He had been asked by an organization called the Permanent World Peace Scheme to read to the Commission a communication addressed by that organization to the USSR representative. After complying with the request, he drew the Commission's attention to the fact that, having on another occasion opposed a USSR amendment which to his mind would have restricted scientific research, he had been called by the organization an opponent of the freedom of science. Such loose use of words was, regrettably, all too common; and the terms "fascist" and "anti-democratic" could be used with equal looseness.

Mr. SANTA CRUZ (Chile) remarked that his country had enacted laws prohibiting fascist and anti-democratic activities; but it did not want a similar prohibition in the covenant because those words would be interpreted differently by each State and would enable governments to suppress in the very name of democracy groups which were defending democratic ideals.

He was unable to support the United Kingdom amendment to article 14, paragraph 1 (E/CN.4/L.146), since, if it were adopted, trade union rights would be subject to different limitations in the two covenants, and the question would invariably arise which set of limitations applied. Furthermore, there was a serious danger that States might refuse to adhere to the covenant on economic, social and political rights on the pretext that it was unnecessary to do so because some of these rights were already in the other covenant.

Mr. CHENG FAOJIAN (China) said that his Government loathed the Communist Party and the Communist International. He considered the latter and its national fifth columns as anti-democratic and that it predated the Fascists in using anti-democratic methods to propagate and carry out its policies. He would therefore vote in favour of the second sentence of the amendment contained in document E/CN.4/L.126, and for that reason asked for a separate vote on the two sentences. He would vote against the first sentence and, if it was adopted, would abstain on the whole amendment.

He would vote for the original texts of articles 15 and 16 and for some of the United Kingdom amendments to them.

Mr. GIKRBAI (Egypt) said that, like article 14, articles 15 and 16 were of outstanding importance in that they would enable the people to protest against violations of the various other rights in the covenant. Since he found the original text of these articles adequate, he would oppose the 126th amendment. That opposition certainly did not mean that he was in favour of fascist or anti-democratic activities, which his country prohibited by law.

He would vote for the United Kingdom amendments, with the exception of the proposal to substitute the words "for the prevention of disorder or crime" for the words "public order" in article 16, paragraph 2. Since he recognized that the expression "public order" presented certain dangers, however, he asked for a separate vote on it. It could easily be debated, since adequate limitations were provided by the reference to national security and the mention of public safety proposed by the United Kingdom.

/Mrs. POISEL

Mrs. ROSKIL (Sweden) recalled that, during the discussion of the article on trade union rights in the covenant on economic, social and cultural rights, her delegation had stated that a similar provision should be included in the present covenant as well. She would therefore vote for article 16 and for the United Kingdom amendment (E/CN.4/L.146) to paragraph 1 of that article. She would abstain on the United Kingdom addition to paragraph 2, as the latter already contained adequate limitations. She would support the United States verbal amendment to replace "shall" by "may" in the sentences dealing with restrictions.

With regard to the USSR amendment, she remarked that the word "anti-democratic" had a different meaning in different countries, and Sweden's interpretation of it would not be favourable to the U.S.R. Her countrymen believed, however, that even dissidents were entitled to freedom of association and preferred to meet their arguments with counter-arguments rather than with force. She would therefore vote against the USSR amendment.

Mrs. ROOSEVELT (United States of America) introduced an amendment (E/CN.4/L.203) to the United Kingdom amendment (E/CN.4/L.146) to article 16.

She still objected to the reference to crime in the United Kingdom amendment (E/CN.4/L.145) to article 15, as endangering the right in question, and to the United Kingdom addition (E/CN.4/L.146) to article 16, paragraph 2, as unduly detailed and unnecessary. She hoped that no part of the USSR amendment would be adopted, as even a part might be regarded as a total substitution for articles 15 and 16. She was still opposed to the words "in a democratic society" in the new French amendment (E/CN.4/L.202) because of their ambiguity.

Mr. BRACCO (Uruguay) said that he was not defending either the Communist Party or any other specific organization, but the freedom of all men to form any organizations they pleased. Although the possibility of prohibiting some political parties had its attractions, the Commission must reject it in the name of moderation. He would therefore vote against those parts of the USSR amendment which referred to fascism and democracy, and would support the passage indicated by the Pakistan representative, with the exception of the words "and unions", on which he therefore asked for a separate vote.

/Mr. MOROZOV

Mr. HOROZOV (Union of Soviet Socialist Republics) remarked that, just as everyone knew that China was not properly represented in the United Nations but did nothing about it, so all delegations were aware that fascist organizations should be forbidden but would vote against such a prohibition.

The United States delegation objected not only to the USSR amendment, but to its faint echo in the words "in a democratic society" contained in the French amendment; the mere mention of democracy was apparently anathema to it. He could only regret that it and other delegations were unable to rise to the great task before the Commission which, by failing to prohibit fascist organizations, would be vitiating all the rights in the covenant.

Mr. HOWARD (United Kingdom) could not agree with the Egyptian representative that the references to national security and public safety in article 15 would cover the same ground as either the broad concept of "public order" or the much narrower "prevention of disorder" which was advocated by his delegation.

In reply to the Chilean representative, he said that, if trade union rights should be subject to different limitations in the two covenants, any conflict could be adjusted at a later stage. A number of delegations had felt that the restrictions of those rights in the covenant on economic, social and cultural rights were inadequate.

He would vote against the United States verbal amendment to change "shall" to "may" in articles 15 and 16.

Mr. BORWYNSKI (Poland) remarked that several speakers had objected to the USSR amendment on the grounds that it might be abused: that objection had never been raised against other texts, although it was equally true of all. Perhaps the possibility of future abuses had been used to distract attention from present abuses with regard to the right of assembly and freedom of association. To give but one example, several democratic organizations had recently been outlawed in France. Those who defended the right to existence of fascist organizations were anxious to conceal the suppression of democratic and progressive organizations in their countries.

/Mr. KOVALENKO

Mr. KOVALENKO (Ukrainian Soviet Socialist Republic) observed that the United States representative's opposition extended to every single part of the USSR amendment and even to the innocent reference to a democratic society in the French amendment, which that representative had termed ambiguous. He could only suppose that an unequivocal recognition of the right to existence of such organizations as the Ku Klux Klan and the American Legion would be more to the taste of the United States Government.

Those who regarded the limitations in the USSR amendment as inadequate wanted limitations which could be invoked on any and all occasions. For his part, he would vote in favour of that amendment.

The CHAIRMAN stated that the debate on articles 15 and 16 was closed and the Commission would begin by voting on the USSR amendment (E/CN.4/L.126) which was a total substitution for both articles.

Mr. CHUNG PAORAN (China) moved the previous question whether the Commission wished to replace articles 15 and 16 by a single article dealing with both the right of assembly and freedom of association, as proposed in document E/CN.4/L.126. If the Commission rejected such a merger in principle, the text contained in that document would be no longer before it.

Mr. WORGZOV (Union of Soviet Socialist Republics) said that the previous question was out of order for two reasons: it had been moved after the closure of the debate; and it did not properly apply to the USSR amendment, which did not merge the texts of the existing articles but substituted for them a new text containing new ideas and meriting a vote on substance. He urged the Chairman to make a ruling to that effect.

Mr. AZKOUJ (Lebanon) and Mr. KORATYNSKI (Poland) supported the USSR representative.

/Mr. CASSIN

Mr. CHAMBI (France) thought that the Chinese proposal was legally receivable, but regretted that it had been made, as no delegation should be denied the right to have its texts submitted to the Commission's judgment.

After a brief discussion, the CHAIRMAN stated that, as the USSR amendment was a total substitution for two articles, there were some grounds for moving the question of principle, which was whether the Commission wished the articles to be merged. As the point was not specifically provided for in the rules of procedure, he was unable to make a considered ruling at once, and preferred to let the Commission decide whether or not it would consider the previous question moved by the Chinese representative.

The Commission decided, by 7 votes in favour to 3 against, with 3 abstentions, not to entertain the motion of the representative of China concerning the advisability of replacing articles 15 and 16 by a single article.

The CHAIRMAN put to the vote the USSR amendment (E/CH.4/L.126) to replace articles 15 and 16, in parts.

The words "in the interests of democracy" were rejected by 12 votes to 3, with 3 abstentions.

The words "and unions" in the third line were rejected by 10 votes to 4, with 4 abstentions.

A roll-call vote was taken on the remainder of the first sentence "The right to organize assemblies, meetings, street processions and demonstrations and to organize voluntary societies must be guaranteed by law", as follows:

The delegation of Pakistan, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Pakistan, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Egypt.

Against: Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Belgium, Chile, China, France, Greece, Lebanon.

Abstaining: Yugoslavia, India.

That text was rejected by 10 votes to 6, with 2 abstentions.

/Mr. ISKROV

Mr. MOROZOV (Union of Soviet Socialist Republics), in consequence of the rejection of the first sentence of the USSR proposal, asked permission to move the second sentence as an addition to the existing text of articles 15 and 16.

It was so agreed.

The CHAIRMAN called for a separate vote on the words "or anti-democratic", as requested by the representative of Poland.

The words "or anti-democratic" were rejected by 11 votes to 4, with 3 abstentions.

A roll-call vote was taken on the second sentence of the USSR proposal (E/CN.4/L.126) as follows:

The delegation of Egypt, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, China.

Against: Egypt, France, Greece, India, Lebanon, Pakistan, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Australia, Belgium, Chile.

Abstaining: Yugoslavia.

The second sentence of the USSR proposal was rejected by 13 votes to 4, with 1 abstention.

The CHAIRMAN invited the Commission to vote on article 15 and the amendments thereto.

The first sentence of the original text (E/1972, page 22) was adopted by 15 votes to none, with 3 abstentions.

Mrs. ROOSEVELT (United States of America) drew attention to the fact that the words "ordre public" in the French amendment (E/CN.4/L.201) had been rendered in English by the single word "order". She was not entirely sure what the French expression did mean, but a literal translation would certainly

/be meaningless

be meaningless in English. The words "for the prevention of disorder" and the words "or crime" in the United Kingdom amendment (E/CN.4/L.145) should be put to the vote separately.

Mr. HOARE (United Kingdom) also was not sure that he understood the precise content of the expression "ordre public" and doubted whether an exact equivalent could be found in English legal phraseology. Since the submission of the French amendment might preclude a decision being taken on the phrase "the prevention of disorder", he would move it as an amendment to the French amendment.

Mr. CASSIN (France) said that the expression "ordre public" had been freely used and well understood in the League of Nations. Broader in scope and in fact embracing the English concept "the prevention of disorder", it might perhaps be rendered by combining the expressions "public policy" and "the prevention of disorder". The concept of "ordre public" did not automatically include those of "national security" and "public safety".

The CHAIRMAN observed that the French amendment (E/CN.4/L.201) was not strictly an amendment to the United Kingdom amendment (E/CN.4/L.145), although it had been submitted as such for technical reasons, but rather to the original text. The United Kingdom representative was therefore in order in moving an amendment to the French amendment.

The United States oral amendment to substitute the word "may" for "shall" in the second sentence of article 15 after the word "restrictions" was adopted by 12 votes to 1, with 4 abstentions.

The French amendment (E/CN.4/L.201) to insert the words "in a democratic society" after "necessary" was adopted by 9 votes to 0, with 1 abstention.

The United Kingdom amendment (E/CN.4/L.145) to substitute the words "in the interests of" for "to ensure" was adopted by 9 votes to none, with 9 abstentions.

/The United Kingdom

The United Kingdom amendment (L/CH.4/L.145) to insert the words "or public safety" after "national security" was adopted by 13 votes to 2, with 3 abstentions.

The United Kingdom amendment (E/CH.4/L.145) to include the words "or crime" was rejected by 13 votes to 2, with 3 abstentions.

The United Kingdom amendment (I/CH.4/L.145) to substitute the words "for the prevention of disorder" for the words "the maintenance of order" in the French amendment (E/CH.4/L.201) was rejected by 12 votes to 6.

The French amendment (E/CH.4/L.201) to substitute the words "the maintenance of order" for "public order" was rejected by 11 votes to 3, with 4 abstentions.

The French amendment (E/CH.4/L.201) to insert the word "public" before "health" was adopted by 9 votes to none, with 6 abstentions.

Mr. DRACCO (Uruguay) asked for a separate vote on the words "national security, public order, the protection of public health or morals or the protection of....." in the original text (E/1972, page 22) as amended.

That phrase was adopted by 12 votes to 2, with 4 abstentions.

Article 15 as a whole and as amended was adopted by 13 votes to none, with 5 abstentions.

Mr. CHENG Pao-CHAI (China) moved the adjournment of the meeting.

The motion for adjournment was adopted by 9 votes to 6, with 3 abstentions.

The meeting rose at 2.30 p.m.