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DRAFT CONVENTION ON FREEDOM OF INFORMATION

Note by the Secretary-General

1. The item entitled "Draft Convention on Freedom of Information" has been on the agenda of the General Assembly since its fourteenth session. At that session the Third Committee adopted the preamble and article 1; at the fifteenth session, article 2; and at the sixteenth session, articles 3 and 4. The preamble and articles 1-4, as adopted by the Third Committee, appear in documents A/4341,^{1/} A/4636^{2/} and A/5041.^{3/} For the convenience of the Third Committee they are reproduced in annex I, while articles 5-19, not yet considered by the Third Committee, are reproduced in annex II.
2. From the seventeenth to the twenty-first session, the Third Committee was not able to continue its consideration of the draft Convention. On the recommendation of the Third Committee the General Assembly, in resolution 2216 (XXI) of 19 December 1966, decided to take up the consideration of the item on freedom of information at its twenty-second session.
3. The text of the draft Convention, now to be considered by the General Assembly,^{4/} was formulated by the Committee on the Draft Convention on Freedom of Information established under General Assembly resolution 426 (V) of 14 December 1950. Pursuant to resolutions 1189 A (XII) and 1313 C (XIII), a

^{1/} See Official Records of the General Assembly, Fourteenth Session, Annexes, agenda item 35.

^{2/} Ibid., Fifteenth Session, Annexes, agenda item 35.

^{3/} Ibid., Sixteenth Session, Annexes, agenda item 36.

^{4/} Ibid., Seventh Session, Annexes, agenda item 29, document A/AC.42/7 and Corr.1, annex.

number of States made comments and proposals on specific articles of the draft Convention. These are reproduced in documents A/3868 and Add.1-8 and A.4173 and Corr.1 and Add.1-3. An amendment to article 6 of the draft Convention, submitted at the fourteenth session of the General Assembly, is to be found in document A/C.3/L.843.^{5/}

^{5/} Ibid., Fifteenth Session, annexes, agenda item 35, document A/4401, para. 3.

ANNEX I

Preamble

The States Parties to this Convention,

Bearing in mind the Charter of the United Nations and the Universal Declaration of Human Rights,

Considering that freedom of expression, information and opinions are fundamental human rights,

Considering that the free interchange of accurate, objective and comprehensive information and of opinions, both in the national and in the international spheres, is essential to the causes of democracy and peace and for the achievement of political, social, cultural and economic progress,

Considering that freedom of information implies respect for the right of everyone to form an opinion through the fullest possible knowledge of the facts,

Desiring to co-operate fully with one another to guarantee these freedoms and to promote democratic institutions, friendly relations between States and peoples and the peace and welfare of mankind, and

Recognizing that in order to achieve these aims the media of information should be free from pressure or dictation, but that these media, by virtue of their power for influencing public opinion, bear to the peoples of the world a great responsibility, and have the duty to respect the truth and to promote understanding among nations,

Have accepted the following provisions:

Article 1

Subject to the provisions of this Convention,

(a) Each Contracting State undertakes to respect and protect the right of every person to have at his disposal diverse sources of information;

(b) Each Contracting State shall secure to its own nationals, and to such of the nationals of every other Contracting State as are lawfully within its territory, freedom to gather, receive and impart without governmental interference, save as provided in article 2, and regardless of frontiers, information and opinions orally, in writing or in print, in the form of art or by duly licensed visual or auditory devices;

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(c) No Contracting State shall regulate or control the use or availability of any of the means of communication referred to in the preceding paragraph in any manner discriminating against any of its own nationals or of such of the nationals of any other Contracting State as are lawfully within its territory on political grounds or on the basis of their race, sex, language or religion.

Article 2

1. The exercise of the freedoms referred to in article 1 carries with it duties and responsibilities. It may, however, be subject only to such necessary restrictions as are clearly defined by law and applied in accordance with the law in respect of: national security and public order (ordre public); systematic dissemination of false reports harmful to friendly relations among nations and of expressions inciting to war or to national, racial or religious hatred; attacks on founders of religions; incitement to violence and crime; public health and morals; the rights, honour and reputation of others; and the fair administration of justice.

2. The restrictions specified in the preceding paragraph shall not be deemed to justify the imposition by any State of prior censorship on news, comments and political opinions and may not be used as grounds for restricting the right to criticize the Government.

Article 3

Nothing in the present Convention may be interpreted as limiting or derogating from any of the rights and freedoms to which the present Convention refers which may be guaranteed under the laws of any Contracting State or any convention to which it is a party.

Article 4

The Contracting States recognize that the right of reply is a corollary of freedom of information and may establish appropriate means for safeguarding that right.

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ANNEX II

Article 5

Each Contracting State shall encourage the establishment and functioning within its territory of one or more non-official organizations of persons employed in the dissemination of information and opinions to the public; so that such persons may thus be encouraged to observe high standards of professional conduct and, in particular, the moral obligation to report facts without prejudice and in their proper context and to make comments without malicious intent, and thereby to:

- (a) Facilitate the solution of the economic, social and humanitarian problems of the world as a whole, by the free exchange of information bearing on them;
- (b) Help to promote respect for human rights and fundamental freedoms without discrimination;
- (c) Help to maintain international peace and security;
- (d) Counteract the dissemination of false or distorted reports which offend the national dignity of peoples or promote hatred or prejudice against other States, or against persons or groups of different race, language, religion or philosophical conviction; or
- (e) Combat any form of propaganda for war.

Article 6

Nothing in the present Convention shall affect the right of any Contracting State to take measures which it deems necessary in order to safeguard its external financial position and balance of payments.

Article 7

Nothing in the present Convention shall affect the right of any Contracting State to take measures which it deems necessary in order:

- (a) To develop and protect its national news enterprises until such time as they are fully developed;
- (b) To prevent restrictive or monopolistic practices or agreements in restraint of the free flow of information and opinions,

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(c) To control international broadcasting originating within its territory: provided that such measures may not be used as a means of preventing the entry, movement or residence of nationals of other Contracting States engaged in the gathering and transmission of information and opinions for dissemination to the public.

Article 8

Nothing in the present Convention shall prevent a Contracting State from reserving under its legislation to its own nationals the right to edit newspapers or news periodicals produced within its territory, or the right to own or operate telecommunication facilities, including radio broadcasting stations, within its territory.

Article 9

(a) Nothing in the present Convention shall limit the discretion of any Contracting State to refuse entry into its territory to any particular person, or to restrict the period of his residence therein.

(b) The present Convention shall not apply to any national of a Contracting State who, while not otherwise admissible into the territory of another Contracting State, is nevertheless admitted conditionally, in accordance with an agreement between that other Contracting State and the United Nations or a specialized agency thereof, or pursuant to a special arrangement made by that other Contracting State in order to facilitate the entry of such national.

Article 10

As between the Contracting States which become parties to any general agreement on human rights sponsored by the United Nations and containing provisions relating to the freedom of information, in so far as any provision of the general agreement relates to the same subject matter, the two provisions shall whenever possible be treated as complementary so that both provisions shall be applicable and neither shall narrow the effect of the other; but in any case of incompatibility the provisions of the general agreement shall prevail.

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Article 11

(a) In time of war or other public emergency a Contracting State may take measures derogating from its obligations under the present Convention to the extent strictly limited by the exigencies of the situation.

(b) Any Contracting State availing itself of this right of derogation shall promptly inform the Secretary-General of the United Nations of the measures which it has thus adopted and of the reasons therefor. It shall also inform him as and when the measures cease to operate.

Article 12

Any dispute between any two or more Contracting States concerning the interpretation or application of the present Convention which is not settled by negotiations shall be referred to the International Court of Justice for decision unless the Contracting States agree to another mode of settlement.

Article 13

(a) The present Convention shall be open for signature to all States Members of the United Nations, to every State invited to the United Nations Conference on Freedom of Information held at Geneva in 1948, and to every other State which the General Assembly may declare to be eligible.

(b) The present Convention shall be ratified by the States signatory hereto in conformity with their respective constitutional processes. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 14

(a) The present Convention shall be open for accession to the States referred to in paragraph (a) of Article 13.

(b) Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 15

(a) The present Convention shall come into force on the thirtieth day following the date of deposit of the sixth instrument of ratification or accession.

(b) For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession, the Convention shall enter into force thirty days after the deposit by such State of its instrument of ratification or accession.

Article 16

The provisions of the present Convention shall extend to or be applicable equally to a signatory metropolitan State and to all the territories, be they Non-Self-Governing, Trust or colonial Territories, which are being administered or governed by such metropolitan State.

Article 17

(a) Any Contracting State may denounce the present Convention by notification of denunciation to the Secretary-General of the United Nations.

(b) Denunciation shall take effect six months after the date of receipt by the Secretary-General of the United Nations of the notification of denunciation.

Article 18

The Secretary-General of the United Nations shall notify the States referred to in paragraph (a) of Article 13 of the following:

(a) Information received in accordance with Article 11;

(b) Signatures, ratifications and accessions received in accordance with Articles 13 and 14;

(c) The date upon which the present Convention comes into force in accordance with Article 15;

(d) Notifications received in accordance with Article 17.

Article 19

(a) The present Convention of which the Chinese, English, French, Russian and Spanish texts shall be equally authentic, shall be deposited in the archives of the United Nations.

(b) The Secretary-General of the United Nations shall transmit a certified copy to each State referred to in paragraph (a) of Article 13.