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Item 16 of the Agenda

DRAFT REPORT OF THE
SEVENTH SESSION OF THE
COMMISSION ON HUMAN RIGHTS

C H A P T E R I I I

DRAFT INTERNATIONAL COVENANT ON
HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION

1. In its consideration of item 3 of the Agenda, draft international covenant on human rights and measures of implementation, the Commission had before it the following documentation:
 - (i) Resolutions 421 (V) and 422 (V) of the General Assembly and resolution (XII) of the Economic and Social Council (E/CN.4/525)
 - (ii) Analysis of the policy decisions taken by the General Assembly and the Economic and Social Council (E/CN.4/513)
 - (iii) Texts of Proposals referred to the Commission on Human Rights under sections B & F of resolution 421 (V) of the General Assembly and resolution (XII) of the Economic and Social Council (E/CN.4/527)

- (iv) Text of the draft International Covenant on Human Rights and Measures of Implementation prepared at the Sixth session of the Commission on Human Rights (E/1681, Annex I)
- (v) Texts of proposals for additional articles submitted to the Sixth session of the Commission on Human Rights (E/1681, Annex III and E/CN.4/353/Add.3, pages 9-10)
- (vi) Subject analysis of the discussions on the draft International Covenant on Human Rights at the Eleventh session of the Economic and Social Council and the Fifth session of the General Assembly (A/C.3/535 and E/CN.4/514)
- (vii) Memoranda by the Secretary-General on the draft International Covenant on Human Rights, concerning the Economic and Social Council resolution 303 I (XI) and containing comments and observations (E/L.68 and A/C.3/534)
- (viii) Decisions of the Committee on the draft Convention on Freedom of Information of interest for the work relating to the draft International Covenant on Human Rights (E/CN.4/532)
- (ix) Text of the Rome Convention for the Protection of Human Rights and Fundamental Freedoms, 4 November 1950, and memoranda thereon (E/CN.4/554 and E/CN.4/524)

2. In accordance with the request of the Economic and Social Council in its resolution 303 I (XI) and the General Assembly in its resolution 422 H (V), the Secretary-General invited Member Governments to submit observations on the decisions of the General Assembly, the Economic and Social Council and the draft International Covenant on Human Rights and Measures of Implementation as prepared at the sixth session of the Commission on Human Rights. The Commission had before it replies from the following Governments: Australia, Burma, Canada, Chile, Czechoslovakia, Denmark, Egypt, France, India, Israel, Luxembourg, New Zealand, the Philippines, Ukrainian Soviet Socialist Republics, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom, and United States of America (E/CN.4/552, E/CN.4/515 and addenda 1 to 17 and E/CN.4/515/Add.2/Corr.1 in English only, E/CN.4/515/Add.6/Corr.1, E/CN.4/515/Add.15/Corr.1).

A

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

3. Besides the documents mentioned in paragraph 1 above, the Commission had before it the following:

General Discussion

4. The Commission held a general discussion on the question of including provisions concerning economic, social and cultural rights in the 203rd to 208th meetings. The following main points were raised and discussed: whether the instructions of the General Assembly were binding on the Commission; whether provisions on social and cultural rights should be embodied in a separate instrument, in separate protocols or in a separate part of the draft Covenant; the difficulty of defining such rights in precise legal terms; whether all the rights proclaimed in Articles 23-27 of the Universal Declaration should be included; the need to avoid merely repeating the provisions of the Universal Declaration which imposes any real legal obligations; the differences between civil liberties and economic and social rights on the one hand and their close relationship on the other; the advisability of including a general undertaking modelled on Article 22 of the Universal Declaration, a broad general provision to promote conditions of economic, social and cultural progress and development, to be supplemented by special undertakings; the special measures of implementation which may be required as far as economic, social and cultural rights are concerned and the question whether the articles on implementation contained in the present draft Covenant were appropriate with regard to those rights; that the inclusion of provisions on economic, social and cultural rights should accord with the obligations undertaken under the Charter of the United Nations, the constitutions of the specialized agencies, and the agreements between the United Nations and the

specialized agencies delimiting their respective responsibilities; the need to avoid overlapping and duplication of the work of the specialized agencies and for close co-operation with and between them in both the formulation and the implementation of those rights; the part to be played by the State both in the national and international sphere; the nature of the rights to be defined and the necessity to have regard to the resources of the State; the need to avoid dividing Members of the United Nations into two groups - those who could, and those who, owing to insufficient economic and social development, could not, ensure certain economic and social rights; the necessity of aiming at obtaining the maximum number of adherences to the Covenant; the desirability of finding a common denominator between economically advanced countries and less developed countries providing for the attainment of better conditions by stages.

5. During the discussion, the Chairman, referring to the points raised by the representatives of India and the United Kingdom, as to whether the Commission had to adhere strictly to the instructions given by the General Assembly in its resolution 421 (V) and the Economic and Social Council in its resolution of 23 February 1951, ((XII)), stated (E/CN.4/SR.204) that the duties of the Commission were determined by Article 68 of the Charter, by its Terms of Reference, and by its Rules of Procedure. From those it appeared that the Commission was responsible directly to the Economic and Social Council and that it should carry out the instructions of the Council to "prepare and submit to the Council at its 13th session a revised draft Covenant on the lines indicated by the General Assembly". The Commission's constitutional position, however, in no way precluded it from asking the Council to reconsider any of its instructions or from making a suggestion as regards the particular subject. Such action, however, would have to be taken apart from the performance of the Commission's duty of including in the Draft Covenant provisions on economic, social and cultural rights under the terms of the General Assembly resolution.

The Working Group on economic, social and cultural rights

6. At the 207th meeting, the representative of France presented a draft resolution (E/CN.4/545/Rev.1) which would have the Commission decide to transform itself into a working party to study, in private session, the various proposals concerning economic, social and cultural rights, in cooperation with the representatives of the specialized agencies concerned, in particular, the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, and the World Health Organization, and, pending the meeting of the working party, to begin discussion of the next item on the agenda. The representative of Chile presented an amendment (E/CN.4/546 and E/CN.4/SR.208) to the draft resolution of France aimed at inviting the non-governmental organisations concerned, especially the International Confederation of Free Trade Unions and the International Federation of Christian Trade Unions to attend the meetings of the working party. An amendment to the proposal of France was also presented by the United Kingdom (E/CN.4/548 and E/CN.4/SR.208) which proposed that the Commission decide to set up a working group consisting not of all members of the Commission but only of the representatives of Australia, Denmark, Egypt, Union of Soviet Socialist Republics, United States of America and Yugoslavia to study the question in co-operation with the representatives of the specialized agencies.

7. The amendment presented by Chile was accepted by the representative of France. The United Kingdom amendment was rejected by the Commission by 10 votes to 3, with 5 abstentions. An amendment by the Union of Soviet Socialist Republics to delete the words "in private meeting" was rejected by 8 votes to 6, with 4 abstentions. The Commission rejected Union of Soviet Socialist Republics amendments to delete the part dealing with the co-operation of the specialized agencies by 15 votes to 2, with no abstentions and the amendment proposing the deletion of the provisions relating to the order of business pending the meeting of the working group by 9 votes to 5, with 4 abstentions. The Commission, at the 208th meeting on 19 April 1951, adopted by 14 votes to 2, with 2 abstentions, the resolution in the following terms:

I

Working Group on Economic, Social and Cultural Rights

The Commission on Human Rights

Decides to transform itself into a working group with the task of studying in private meeting, the various proposals concerning economic, social and cultural rights, in co-operation with the representatives of the specialized agencies concerned, in particular, the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization and the World Health Organisation, and invites the Non-Governmental Organisations concerned, especially the International Confederation of Free Trade Unions and the International Federation of Christian Trade Unions to attend the meetings of the Working Group and

Decides that, pending the meeting of the Working Group, it will begin discussion of the next item on its agenda.

8. At the 209th meeting the Commission agreed that observers from any Member State not represented on the Commission could attend the meetings of the Working Group. At the 215th meeting the Commission decided by 12 votes to none, with 1 abstention, that the records of the meetings of the Working Group should be given ordinary general distribution.

9. The Working Group on Economic, Social and Cultural Rights (for the composition see paragraph 9 above) held three meetings on 26 and 27 April 1951 (E/CN.4/AC.14/SR.1-3) and proceeded with its work according to the terms of reference assigned to it in the resolution adopted by the Commission on 19 April 1951 (see paragraph 7 above).

10. The Chairman reported to the Commission at the 216th meeting that in the Working Group there had been a fruitful exchange of views between the members of the Group and the representatives of the Specialized Agencies and that the Group had recommended that it should be dissolved by the Commission and that its work should be continued by the Commission. The representative of Lebanon

proposed the adoption of this recommendation and that the Commission should continue from the point where the Working Group had ceased its activities, with the representatives of the ILO being permitted to speak in their various appropriate capacities. This proposal was unanimously adopted.

11. At the 216th meeting the Commission began consideration of the various proposals relating to economic, social and cultural rights on the basis of compilation (E/CN.4/AC.14/2 and Corr. 1 & 2 and Add. 2 to 5) which showed, order of their submission, the proposals of the representatives of the USSR (E/CN.4/537), Yugoslavia (E/CN.4/538/Rev.1), the United States of America (E/CN.4/539/Rev.1), Denmark (E/CN.4/542), the amendments of Egypt to the Danish proposal (E/CN.4/547), and of Australia (E/CN.4/543).

Substantive Rights

12. The Commission considered proposals on substantive rights in the field of economic, social and cultural rights at its 216 to 232nd meetings. During these deliberations, the representatives of the Specialized Agencies participated in the discussion and submitted suggestions. The representatives of the International Labour Organisation suggested that articles on economic and social rights should be simply and precisely stated without too much detail, as the latter work was being carried out by the Specialized Agencies concerned, and that specific obligations should be placed on Governments to ensure certain conditions for the enjoyment of these rights. The representatives of the United Nations Educational, Scientific and Cultural Organization, whose Director-General had submitted certain suggestions dealing with the right to education and cultural rights (E/CN.4/541/Rev.1), felt that the suggested undertakings of the States in these connections were limited in scope, but they should cover obligations by which the States would undertake the gradual attainment of the objectives which could be fulfilled within a reasonable time; in particular the desirability of

maintaining an organic balance between the various parts of the Covenant ought not to hinder the special place which the right to education occupied in the field of human rights. The World Health Organization had submitted to the Commission certain provisions on health taken from its Constitution (E/CN.4/544 and Add.1). Its representatives advocated that provisions on the right to health, couched in terms identical with those used in the Constitution of the Organization, should be included by the Commission in its draft, especially as they had been recognized by seventy-nine countries and as without them other rights became almost meaningless.

13. The Commission considered proposals concerning an article on the right to work at its 216th, 217th and 218th meetings. The discussion on this subject had already been begun at the last meeting of the Working Group (E/CN.4/AC.14/SR.3). The proposal of the Union of Soviet Socialist Republics (E/CN.4/576) that : "the State shall ensure to everyone the right to work and to choice of profession, with the object of creating conditions which will remove the threat of death by hunger or by inanition," was rejected by 10 votes to 2 with 6 abstentions.

The proposal of Yugoslavia (E/CN.4/576), "Work being the fundamental basis of all human endeavour, everyone who so desires has the right to be afforded the opportunity to gain his living by work," was rejected by 7 votes to 2 with 8 abstentions.

The Commission then adopted, at its 218th meeting, the proposal of France (E/CN.4/576), which now forms Article (see Annex) by 16 votes to none, with 2 abstentions.

14. At its 218th, 219th and 220th meetings the Commission considered proposals relating to an article on conditions of work. The proposal of the Union of Soviet Socialist Republics (E/CN.4/AC.14/2/Add.2, section III), "The right to rest and leisure shall be ensured by the State to every hired worker in enterprises and establishments, either by law or by means of collective agreements which shall make provision in particular, for reasonable limitation of working hours, and for regular paid leave," was rejected by 8 votes to 2, with 7 abstentions.

The Commission also rejected by 5 votes to 3, with 9 abstentions the following part of the proposal of Yugoslavia (E/CN.4/578) : "Every worker has the right, without discrimination of any kind, to reasonable conditions of work, and especially to a fair wage in relation to the cost of living, to reasonable limitation of working hours, either by law or by means of collective agreements, to working conditions not harmful to his health, to regular leave with pay, and to the uninterrupted improvement of those conditions of work ...". As a consequence of this vote the additional words proposed by Yugoslavia "in proportion to any increase in the profits earned by the undertaking," were not put to the vote.

The Commission then proceeded to vote sentence by sentence on a joint France-United States of America proposal (E/CN.4/580), which included alternative texts. The joint text, as amended, was adopted by 13 votes to none, with 4 abstentions, and forms Article (see Annex).

15. Proposals for an article on the right to social security were discussed at the 220th and 221st meetings. The proposal of the Union of Soviet Socialist Republics (E/CN.4/AC.14/2/Add.3, section IV), "Social security and social insurance for workers and salaried employees shall be provided at the expense of the State or of the employer, in accordance with each country's legislation," was rejected by 11 votes to 2, with 4 abstentions.

The amendment submitted by Denmark (underlined) to the Australian proposal (E/CN.4/AC.14/2/Add.3, section IV): "The States parties to the Covenant recognize the right of everyone to social security, that is to say, the right to social provision for everyone who, for reasons beyond his control, is unable to provide a livelihood for himself and his family," was rejected by 10 votes to 2, with 5 abstentions. An amendment by France to add the words "for himself and his family" to the Australian proposal was not adopted, the vote being 4 in favour, 4 against and 8 abstentions. The Australian proposal, which forms Article of the Draft Covenant (see Annex), was adopted by 9 votes to 3, with 5 abstentions.

16. At its 222nd and 224th meetings, the Commission considered proposals relating to special provisions concerning women and children. It rejected by 10 votes to 7, with 1 abstention the proposal of the Union of Soviet Socialist Republics (E/CN.4/AC.14/2/Add.3, section V): "Women at work shall enjoy privileges not inferior to those granted to men, and shall receive equal pay for equal work." The underlined part of the following proposal of France, Guatemala and Yugoslavia (E/CN.4/586) was not adopted, the voting being 9 in favour and 9 against: "The States parties to the Covenant recognize that: without prejudice to the right of women to the same working conditions as men ...". An amended text replacing this part by the words: "(1) special protection should be accorded to maternity and motherhood," was adopted by 12 votes to none, with 6 abstentions.

The first part of the second paragraph of the joint proposal, namely, "(2) special measures of protection should be taken on behalf of children and young persons," was adopted by 15 votes to none, with 3 abstentions. An amendment submitted by Denmark (E/CN.4/588) to add the words "whether born in or out of wedlock," to the phrase was rejected by 7 votes to 6, with 4 abstentions. The second part of the second paragraph of the joint proposal with the United Kingdom amendment to add the word "normal", was adopted in the following form: "and that in particular they should not be required to do work likely to hamper their normal development,".

The joint proposal as amended was adopted by 16 votes to none, with 2 abstentions and will be found in Article (see Annex).

17. Proposals concerning the right to living accommodation were considered at the 222nd meeting. The proposal of the Union of Soviet Socialist Republics (E/CN.4/AC.14/2/Add.3, section VI): "The State shall take all the necessary steps, especially legislative measures, to ensure to everyone living accommodation worthy of man," was rejected by 6 votes to 5, with 7 abstentions. The following amendment of Egypt (underlined) to the United States of America proposal: "The States parties to the Covenant recognize the right of everyone to living accommodation worthy of man (instead of adequate housing)," was rejected by 6 votes to 3, with 9 abstentions and the United States proposal was adopted by 12 votes to none, with 6 abstentions. See Article in Annex below.

18. At the 223rd meeting on 2 May 1951 the Commission discussed proposals relating to the right to an adequate standard of living. The amendment of Yugoslavia to add the words "and the continuous improvement of living conditions," at the end of the proposal of Australia: "The States parties to the Covenant recognize the right of everyone to an adequate standard of living," was adopted by 6 votes to 5, with 7 abstentions. An amendment submitted by China to add the words, "with special reference to housing, food and clothing," was rejected by 7 votes to 3, with 5 abstentions. The Australian proposal as amended was adopted by 14 votes to none, with 4 abstentions, its text will be found in Article (see Annex).

19. Proposals concerning the right to health were considered at the 223rd meeting. It was decided by 11 votes to 5, with 2 abstentions to vote first on the proposal of Egypt, which was based on the provisions of the Constitution of the World Health Organization, as amended by Chile (E/CN.4/AC.14/2/Add.4, section VIII and E/CN.4/SR.223). The proposal of the United States of America (E/CN.4/SR.223), which was accepted by Chile, was adopted by 14 votes to none, with 3 abstentions in the following form:

"The States Parties to the Covenant recognize the right of everyone to the enjoyment of the highest standard of health obtainable."

The amendment of the United Kingdom (E/CN.4/589 and E/CN.4/SR.223) to the rest of the Egyptian proposal as amended by Chile and which read: "Each State Party hereto undertakes, by combatting disease, by providing legislative measures to promote and protect health and by providing favourable conditions for medical care, to assure to all persons within its territory, as far as possible, the right to an adequate standard of health," was rejected by 8 votes to 7, with 3 abstentions.

The Commission then voted on the proposal of Egypt, as amended by Chile, paragraph by paragraph. The paragraph reading, "With a view to implementing and safeguarding this right each State Party hereto undertakes to provide legislative measures to promote and protect health...", was adopted by 9 votes to 2, with 7 abstentions.

The paragraph reading, "to reduce infant mortality and provide for healthy development of the child," was adopted by 10 votes to 3, with 4 abstentions.

The following paragraph was adopted by 10 votes to 4, with 4 abstentions: "to improve nutrition, housing, sanitation, recreation, economic and working conditions and other aspects of environmental hygiene."

The third paragraph reading as follows was adopted by 10 votes to 4, with 4 abstentions: "to control epidemic, endemic and other diseases."

An amendment submitted by the Union of Soviet Socialist Republics (E/CN.4/583) to the proposal of Denmark (E/CN.4/AC.14/2/Add.4, section VIII),

which was withdrawn, was moved as an amendment to the proposal of Egypt and adopted by 10 votes to 4, with 4 abstentions in the following form as paragraph four: "to provide conditions which would assure the right of all to medical service and medical attention in the event of sickness." The representative of Chile proposed that the three paragraphs quoted below, of the Egyptian proposal, which were based on the Constitution of World Health Organization and the suggestions of the Director-General of the Organization, be withdrawn and this was done with the concurrence of the representative of Egypt: "to improve standards of medical teaching and training in the health, medical and related professions; to enlighten public opinion on problems of health; to foster activities in the field of mental health, especially those affecting the harmony of human relationship." The Egyptian proposal as amended was adopted by 10 votes to none, with 8 abstentions and forms Article (see Annex).

20. Proposals relating to trade union rights and the right to strike were considered from the 224th to 226th meetings. At the 226th meeting the Commission voted paragraph by paragraph on the proposal of the Union of Soviet Socialist Republics (E/CN.4/AC.14/2/Add.4, section X) and rejected all the paragraphs as follows: paragraph 1 by 7 votes to 3 with 8 abstentions; paragraph 2 by 9 votes to with 7 abstentions; paragraph 3 by 8 votes to 3 with 7 abstentions; paragraph 4 by 8 votes to 3 with 7 abstentions; paragraph 5 by 8 votes to 3 with 7 abstentions; paragraph 6 by 8 votes to 5 with 5 abstentions, and paragraph 7 by 8 votes to 2 with 8 abstentions.

The Commission rejected by 4 votes to 2 with 11 abstentions an amendment (underlined) submitted by the representative of Uruguay (E/CN.4/594) to the amended first paragraph of the proposal of Yugoslavia (E/CN.4/AC.14/2/Add.1, section X and E/CN.4/SR.): "The States Parties to the Covenant recognize that everyone whose main income is derived from work shall have the right to join local, national and international trade union organizations of his own choice, with a view to protecting his economic and social interest, for all purposes not at variance with law or democratic policy and to exercise trade

union rights without hindrance, including the right to strike, in order to implement and ensure his rights, in particular those enunciated in the present Covenant". Another Uruguayan amendment to add to the end of the first paragraph of the Yugoslav proposal the words mentioned below, was rejected by 7 votes to 5 with 6 abstentions and 6 votes to 4 with 8 abstentions: "it shall be understood that the right to strike is restricted to circumstances where attempts at conciliation have been exhausted. In the same way, the right to strike may be restricted by legislative measures in the case of public officials". The proposal of the representative of Yugoslavia mentioned above together with its second part, which read "No one may be dismissed from his work or persecuted in any way by reason of his participation in the trade union movement or because he has exercised the right to strike", was rejected by 8 votes to 3 with 7 abstentions.

The Commission then adopted by 10 votes to none, with 8 abstentions the proposal of the United States of America (E/CN.4/591/Rev.1) in the following form: "The States Parties to the Covenant recognize the right of everyone, in conformity with Article 16, to form and join local, national and international trade unions of his choice for the protection of his economic and social interests." The words "of his choice" had been previously voted on separately and adopted by 8 votes to 2 with 6 abstentions and the representative of the United States of America stated that she had accepted the words "in conformity with Article 16", on a provisional basis until that Article had been considered. The text as adopted will be found in Article (see Annex).

21. Proposals relating to the right to education and cultural rights, together with suggestions thereon by the United Nations Education, Scientific and Cultural Organization were considered by the Commission at the 226th to 230th meetings. At the 229th meeting the Commission voted on the proposal

of the Union of Soviet Socialist Republics (E/CN.4/AC.14/2/Add.4, section IX) in parts. The first paragraph, "The State shall ensure the development of science and education in the interest of progress and democracy, and in those of the maintenance of peace and of co-operation between the nations", was rejected by 6 votes to 2 with 10 abstentions. The second part of the proposal, with the addition of the word "religion" by 12 votes to none with 5 abstentions, was adopted by 8 votes to 7 with 3 abstentions in the following form: "Educational facilities shall be accessible to all without distinction of any kind as to race, sex, language, religion, means or social origin." The rest of the passage reading, "and the State shall ensure this right by providing for elementary education, scholarship system, and the necessary system of schools", was rejected by 6 votes to 4 with 8 abstentions. The proposal as amended was rejected by 8 votes to 7 with 3 abstentions.

The Commission then voted on the proposal of the representative of Chile (E/CN.4/613/Rev.1), which was based on the suggestions of the Director-General of the United Nations Education, Scientific and Cultural Organization (E/CN.4/541/Rev.1). The first article beginning with the phrase "the States Parties to the Covenant recognize" was voted on by paragraphs. The first paragraph, "the right of everyone to education", was adopted by 16 votes to none with 2 abstentions. Paragraph 2 was adopted by 11 votes to 3 with 4 abstentions. Paragraph 3, "that primary education shall be compulsory and available free to all", was adopted by 16 votes to none with 2 abstentions.

Paragraph 4, with the changing of the words "should" to "shall" was adopted by 14 votes to none with 4 abstentions. Paragraph 5 was voted upon in parts. The words "that higher education shall be equally accessible to all on the basis of merit" were adopted by 14 votes to none with 4 abstentions. The words "and shall be made progressively free", immediately following that passage was adopted by 11 votes to 3 with 4 abstentions and the paragraph as amended was adopted by 14 votes to none with 4 abstentions. Paragraph 6, which was taken over by the representative of Chile from paragraph 5 of the proposal of the United States of America (E/CN.4/593/Rev.2) was adopted by 16 votes to none with 2 abstentions. Paragraph 7, in which the words "and the suppression of all incitement to racial and other hatred", were approved separately by 12 votes to 1 with 4 abstentions, was adopted by 15 votes to none with 2 abstentions. An amendment by the representative of Uruguay to replace the next two paragraphs by "Freedom of education is guaranteed within the limits of the principles laid down in the preceding articles and subject to control by the State", was rejected by 10 votes to 4 with 4 abstentions. Paragraph 8 of the proposal of Chile was adopted by 13 votes to none with 5 abstentions. Paragraph 9, with the Lebanese amendment to replace "regard to" by "respect for", which was accepted by 8 votes to 6 with 4 abstentions, was adopted by 10 votes to none with 8 abstentions, after the Commission had rejected the Swedish amendment to replace the word "convictions" by the word "confessions" by 10 votes to 2 with 6 abstentions. The Commission rejected the following part of the article by 12 votes to 3 with 3 abstentions after voting by 6 votes to 4 with 8 abstentions for the deletion of the words underlined: "Each State party to the Covenant pledges itself to undertake progressively, with due regard to its organization and resources, all measures necessary to attain these objectives in all the territories within its jurisdiction." The article as a whole, as amended, was adopted by 15 votes to none with 3 abstentions.

The next article of the proposal of Chile on education was adopted by 9 votes to 3 with 4 abstentions, after the Commission had decided by 8 votes to 1 with 7 abstentions to retain the words "in its metropolitan territory or other territories under its jurisdiction" (E/CN.4/SR.230).

The first part of the article dealing with cultural rights was adopted by 15 votes to 1 with 2 abstentions after the inclusion of the words "in accordance with the principle of non-discrimination enunciated in paragraph 1 of Article 1 of this Covenant," had been voted on with 8 in favour, 8 against and 2 abstentions. The next paragraph with its 2 sub-paragraphs was adopted by 15 votes to none with 3 abstentions. The amendment of the representative of France to add a sub-paragraph reading "to obtain protection for his moral and material interests resulting from any scientific or artistic production of which he is the author", was not adopted, the vote being 7 in favour, 7 against and 4 abstentions. The article was adopted by 14 votes to none with 4 abstentions.

These articles will be found as Articles
(see Annex).

22. The Commission considered a proposal submitted by the representative of Lebanon (E/CN.4/592) on equality of rights of men and women relating to economic, social and cultural rights, together with an amendment proposed thereto by the representative of Yugoslavia (E/CN.4/597), at its 230th meeting. The Chinese proposal (E/CN.4/SR.230) to substitute the following was not adopted, the vote being 5 in favour, 5 against and 8 abstentions: "The States Parties to the Covenant recognize the full equality of men and women in the enjoyment of all the rights set forth in this Covenant." The amendment of the United States of America (E/CN.4/SR.230), namely, "The States Parties to the Covenant recognize the equal right of men and women in the enjoyment of all economic, social and cultural rights and particularly of those set forth in this Covenant", was rejected by 8 votes to 6 with 3 abstentions. The Lebanese proposal, incorporating the Yugoslav amendment, was adopted by 11 votes to 2 with 5 abstentions; it forms Article (see Annex).

23. At the 230th, 231st and 232nd meetings the Commission discussed the following proposal, concerning the right to own property, submitted by the representative of the United States of America (E/CN.4/599 and E/CN.4/SR.230): "The States Parties to the Covenant recognize the right of everyone to own property alone as well as in association with others. Private property shall not be taken for public use without just compensation." An amendment submitted by the representative of the Union of Soviet Socialist Republics (E/CN.4/614) suggested the insertion of the words "in

accordance with the laws of the country in which that property is found" to the end of the first sentence. The representative of Uruguay had suggested (E/CN.4/603 and E/CN.4/SR.230) the inclusion of an additional sentence reading (E/CN.4/603 and E/CN.4/SR.231): "No one shall be expropriated except in cases of public necessity or utility established by law, due compensation being paid in every case." The representative of France suggested the following proposal (E/CN.4/SR.232): "1. The States Parties to this Covenant recognize the right of everyone to own property alone as well as in association with others. 2. This right shall be subject to the laws of the country in which the property is situated. 3. No one may be arbitrarily deprived of his property. No one may be expropriated except in cases of public necessity or utility established by law and provided a just compensation is paid, taking into account, if appropriate, the nature and the origin of the property expropriated." However, the Commission did not act on any of these proposals and amendments submitted thereto but adopted by 10 votes to 6, with 2 abstentions, the following resolution moved by the representative of Denmark:

Article on the Right of Property

The Commission on Human Rights

Decides not to include, at present, an Article on the right of property in the International Covenant on Human Rights.

General Clauses

24. The Commission discussed proposals relating to general clauses concerning economic, social and cultural rights in its 231st to 237th meetings. During these discussions members of the Commission raised the point whether it was necessary to have special general clauses concerning economic social and cultural rights, since general provisions of a similar nature, especially Articles 1, paragraphs 1 and 2, and Article 18 of the Draft Covenant would apply to the whole Covenant. Other members were of the opinion that it would be advisable to have separate general clauses applying to provisions on economic, social and cultural rights because, they said, the existing provisions related to rights of a different nature.

25. At the 234th meeting the Commission agreed to postpone consideration of the proposal of the representative of the United States of America (E/CN.4/610) which was as follows: "Each State party to the Covenant recognizes that Part IV and the principle of non-discrimination enunciated in Part I, Article 1, paragraph 1, are applicable to the provisions of this Part of the Covenant," until the Commission had considered the provisions of Part I and Part IV of the draft Covenant.

26. At the 233rd meeting it was decided by 11 votes to 3 with 4 abstentions to take a prior decision on the principle of a general clause. The representatives of Chile, the Ukrainian Soviet Socialist Republics and the Union of Soviet Socialist Republics suggested that the Commission should vote to decide in principle whether to include a general "umbrella" article in that part of the draft Covenant dealing with economic, social and cultural rights. The representative of the United Kingdom, however, suggested that the Commission should vote to decide whether to include such a clause without reference therein to the draft Covenant. Finally, the Chairman put a proposal of the representative of France to the vote and this was adopted by 10 votes to 8 in the following form:

General "umbrella" clause

The Commission on Human Rights

Decides to include a general "umbrella" article in connection with economic, social and cultural rights.

27. The Commission, then proceeded to vote on the proposals submitted by Yugoslavia (E/CN.4/609/Rev.1), France (E/CN.4/612), an amendment submitted jointly by France and United States of America (E/CN.4/615) to the fourth paragraph of the French proposal and an amendment to the same paragraph submitted by Chile, Egypt and Guatemala (E/CN.4/616). The Yugoslav proposal was rejected by 8 votes to 3 with 7 abstentions. The first three paragraphs of the French proposal were adopted by 11 votes to none with 6 abstentions, 11 votes to none

with 6 abstentions and 11 votes to none with 7 abstentions respectively. The joint France-United States amendment was not adopted, the voting being 8 in favour, 8 against and 2 abstentions. The amendment of Chile, Egypt and Guatemala was rejected by 11 votes to 6 with 1 abstention. The three introductory paragraphs of the proposal of the representative of France were rejected as a whole by 9 votes to none with 6 abstentions.

28. The Commission, at the 234th meeting, decided by 10 votes to 6 with 2 abstentions, to reopen the question of the time limit for the receivability of proposals on the general "umbrella" clause. At its 236th to 237th meetings the Commission discussed a proposal submitted by the representative of France (E/CN.4/618).

The Commission rejected by 10 votes to 6 with 2 abstentions the proposal of the representative of Yugoslavia, to postpone the consideration of the subject until the consideration of Article 1 of the draft Covenant. Paragraphs 1, 2 and 3 of the French proposal (E/CN.4/618 and E/CN.4/SR.236) were adopted by 10 votes to 8. The Commission proceeded to vote on the following paragraph 4 by parts: "undertake to take steps, individually and through international co-operation, to the maximum of their available resources with a view to achieving progressively the full realization of the rights recognized in this part of the present Covenant". The first clause, reading "undertake to take steps, individually and through international cooperation" was adopted by 12 votes to none, with 6 abstentions. The word "available" was adopted by 11 votes to none, with 7 abstentions. The phrase, "to the maximum of their available resources" was adopted by 12 votes to none, with 6 abstentions. The Commission did not adopt the substitution of the word "implementing" for the words "achieving progressively the full realization of", by 8 votes to 8, with 2 abstentions. The word "progressively" was adopted by 11 votes to 5, with 2 abstentions. The Egyptian amendment to add the words "if necessary" after the word "progressively" was rejected by 7 votes to 6, with 5 abstentions. Paragraph 4 in its original form was adopted by 11 votes to 7. The whole article was adopted by 10 votes to 8. This Article appears as Article in Annex

29. The following proposal of the representative of the United States of America (E/CN.4/610/Add.2) relating to a general limitations clause concerning economic, social and cultural rights was discussed at the 234, 235 and 236th meetings; "Each State party to this Covenant recognizes that in the enjoyment of those rights provided by the State in conformity with this part of the Covenant, the State may subject such rights only to such limitations as are determined by law and solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society." The words "the State may subject such rights only to such limitations as are determined by law," was adopted by 10 votes to 2 with 6 abstentions, though the United States had accepted in substitution the words "no one may be subject to limitations except such as are determined by law". Immediately after this part of the text was inserted the amendment proposed by Chile to add the words "only in so far as this may be compatible with the nature of these rights," was adopted by 7 votes to 2 with 9 abstentions. Many members of the Commission recalled that in the General Assembly and the Economic and Social Council the use of the expression "public order" had been criticized and that the Secretariat suggestion to use the expression "prevention of disorder" or "measures designed to prevent any public disaster" might be used (E/CN.4/528). However, the Commission decided by 6 votes to 2 with 10 abstentions to complete the text of the article by adding after the Chilean amendment the phrase "and solely for the purpose of promoting general welfare in a democratic society", as proposed by the representatives of Lebanon and Uruguay (E/CN.4/SR.236). The Commission, then, adopted by 9 votes to 6 with 3 abstentions the amended text. A proposal by the United Kingdom representative as amended (underlined) to add a new paragraph reading "Nothing in this article shall be considered as affecting the provisions of Article 16 of this (instead of the) Covenant", was rejected by 4 votes to 3 with 10 abstentions. The article as a whole, as amended, was adopted by 11 votes to 6 with 1 abstention, and it appears as Article in Annex

Measures of Implementation of
economic, social and cultural rights.

30. The question of the implementation of the economic, social and cultural rights was considered at the 218th and the 237, 238, 241, 242, 243, 246 and 247th meetings. During the course of the general discussions on this question attention was directed, inter alia, towards the following points: the general responsibility of the United Nations; cooperation and participation of Specialized Agencies; the obligation of States and the Specialized Agencies to report; the form and plan for such reports and the organ which would determine these; how the reports might be submitted and to whom; the body to be charged primarily and otherwise with the consideration of the reports and with the study of the question; whether responsibilities should mainly devolve upon the Specialized Agencies; whether the Economic and Social Council should be responsible for the general implementation machinery; the possibility of the Commission on Human Rights taking part with or without the assistance of experts and representatives of Specialized Agencies; the establishment of a Committee by the Economic and Social Council; the important question of the role to be played by the Technical Assistance Programme; the need to avoid duplication of functions, especially as regards the Specialized Agencies, and unnecessary expenditure; the ways in which recommendations might be made to the States concerned.

31. At its 242nd meeting the Commission adopted by 12 votes to 2 with 4 abstentions the proposal of Egypt and Guatemala to establish a Working Group consisting of the representatives of Australia, Chile, Denmark, France, Lebanon, Pakistan, Sweden and United States of America to elaborate a common draft on the measures of implementation of economic, social and cultural rights. The draft proposals before the Commission were those submitted by the representatives of Australia and the United States of America (E/CN.4/AC.14/2/Add.5), of Lebanon (E/CN.4/570/Rev.2), of Pakistan and Sweden (E/CN.4/622), which was based on the tentative suggestions on implementation made by the representatives of the International Labour Organisation (E/CN.4/AC.14/1), and of the representative of France (E/CN.4/623).

32. The Working Group held three meetings (E/CN.4/LC.15/SR.1 to 3) and submitted a report to the Commission, which contained draft articles on implementation of economic, social and cultural rights (E/CN.4/629) .. The representatives of Australia and the United States of America withdrew their proposals.

33. The Commission considered the draft articles submitted by its Working Group at its 243rd, 246th and 247th meetings. It adopted an addition to Article A suggested by the representative of France (underlined) by 12 votes to 5 with one abstention in the following form: "The States Parties to this Covenant undertake to submit reports concerning the progress made in achieving the observance of those rights in conformity with the following articles and the recommendations which the General Assembly and the Economic and Social Council, in the exercise of their general responsibility, may make to all the members of the United Nations." Paragraph 1 of Article B was adopted by 15 votes to 2 with 1 abstention, after the Commission had rejected by 5 votes to 3 with 9 abstentions an amendment proposed by the representative of India to insert the words "amongst others" before the words "with the States parties". Paragraph 2 of Article B was adopted by 14 votes to none with 4 abstentions and paragraph 3 was adopted by 15 votes to none with 3 abstentions. Article B as a whole was adopted by 15 votes to 2 with 1 abstention.

34. The Commission then voted on paragraph 1 of Article C which read as follows: "The States parties to this Covenant shall furnish reports under the preceding Article to the Secretary-General of the United Nations; but, in the case of members of a specialized agency, the communication shall be addressed to the Specialized Agency in respect of matters within the competence of that agency." The Egyptian amendment (E/CN.4/631/Rev.2) to add between the words "to the Specialized Agency" and "in respect of matters", the following: "at the same time as to the Secretary-General", was adopted by 8 votes to 7 with 3 abstentions. The Commission, however, rejected this paragraph as amended by 8 votes to 7 with 3 abstentions. Paragraph 2 of article C as

amended by Egypt (E/CN.4/631/Rev.2) by 14 votes to none with 4 abstentions and 11 votes to 2 with 5 abstentions and the United States of America (E/CN.4/629) by 10 votes to 4 with 4 abstentions was adopted in the following form by 13 votes to 2 with 3 abstentions: "Pursuant to its responsibilities under the Charter in the field of Human Rights, the Economic and Social Council shall make special arrangements with the Specialized Agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of this part of the Covenant falling within their competence. These reports shall include particulars of decisions and recommendations on such observance adopted by their competent organs."

35. Article D was adopted by 10 votes to 6 with 2 abstentions. Article E was adopted by 10 votes to 7 with 1 abstention and Article F was adopted by 14 votes to 2 with 2 abstentions.

36. Article G was adopted in the following amended form (underlined) by 10 votes to 3 with 5 abstentions: "The Economic and Social Council may submit to the Technical Assistance Board or to any other appropriate (instead of the word "competent", adopted by 7 votes to none with 11 abstentions) international organ the findings contained in the report of the Commission on Human Rights which may assist such organs in deciding, each within its competence (adopted by 11 votes to none with 7 abstentions), on the advisability of international measures likely to contribute to the progressive implementation of this Covenant."

37. Article H was adopted by 13 votes to 2 with 3 abstentions and article I was adopted by 10 votes to 4 with 4 abstentions.

38. Article J was voted on in parts. The Commission unanimously adopted the words "Nothing in this Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations". The words "and of the Constitutions of the specialized agencies" were adopted by 14 votes to 2 with 2 abstentions and the words "which define the respective responsibilities of the various organs

of the United Nations and of the specialized agencies", immediately following, were adopted by 11 votes to 2 with 5 abstentions. The last words of the article, "in regard to the matters dealt with in this Covenant", were adopted by 11 votes to 1 with 6 abstentions. The article as a whole was adopted by 14 votes to 2 with 2 abstentions.

39. The article relating to the implementation of economic, social and cultural rights adopted by the Commission will be found as Articles in Annex