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PROVISIONAL SUMMARY RECORD OF THE HUNDRED AND NINETY-SIXTH MEETING

Held at Lake Success, New York,
on Wednesday, 17 May 1950, at 10 a.m.

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<u>CHAIRMAN:</u>	Mrs. ROOSEVELT	United States of America
<u>Members:</u>	Mr. WHITLAM	Australia
	Mr. NISOT	Belgium
	Mr. VALENZUELA	Chile
	Mr. CHANG)	China
	Mr. CHA)	
	Mr. SORENSEN	Denmark
	Mr. RAMADAN	Egypt
	Mr. CASSIN)	France
	Mr. LEROY BEAULIEU)	
	Mr. KYROU	Greece
	Mrs. MEHTA	India
	Mr. MALIK	Lebanon
	Mr. MENDEZ	Philippines
	Miss BOWIE	United Kingdom of Great Britain and Northern Ireland
	Mr. ORIBE	Uruguay
	Mr. JEVREMOVIC	Yugoslavia

Representatives of specialized agencies:

Miss ORENSTEIN World Health Organization (WHO)

Representatives of non-governmental organizations:

Category A: Miss SENDER International Confederation of Free Trade Unions

Category B: Mrs. AIETA Catholic International Union for Social Service,

Mr. NOLDE Committee of Churches on International Affairs

Mr. MOSKOWITZ Consultative Council of Jewish Organizations

Mr. HALPERIN Co-ordinating Board of Jewish Organizations

Mr. CRUICKSHANK Inter-American Council of Commerce and Production

Miss ROBB International Federation of University Women

Miss SCHAEFER International Union of Catholic Women's Leagues

Mr. GROSSMAN world Jewish Congress

Secretariat: Mr. SCHWELB Assistant Director, Division of Human Rights

Mr. SCHACHTER Deputy Director, General Legal Division

Mr. DAS)
Miss KITCHEN) Secretaries of the Commission

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS:

Articles 4 and 23 (E/1371, E/CN.4/365, E/CN.4/353/Add.10) (continued)

1. The CHAIRMAN recalled that two points remained undecided as regards article 4; first, the question of the inclusion of article 9 in the enumeration of articles given in paragraph 2 of article 4, and secondly, the question of reconsideration of the inclusion of article 20 in the same enumeration.

/2. Mr. MALIK

2. Mr. MALIK (Lebanon) favoured the reconsideration, at the current meeting, of the inclusion of article 26.
3. Mr. KYROU (Greece) also favoured reconsideration of the question. Article 20 was of a general nature, and he felt that its enumeration in paragraph 2 of article 4 would constitute a serious blow to the draft covenant and a virtual invitation to the Governments not to ratify it.
4. Mr. MENDEZ (Philippines), who had voted with the minority at the preceding meeting, formally moved the reconsideration of the question.
The motion was adopted by 10 votes to none, with 1 abstention.
5. Mr. MALIK (Lebanon) had little to add to his previous statements. He still saw no reason why article 20 could not be derogated from in time of war.
6. The CHAIRMAN, speaking as the representative of the United States of America, thought it obvious that States would be forced to derogate from the provisions regarding equality in time of war. Enemy aliens would normally be under the jurisdiction of the State in which they were residing; it was evident that they would have to be treated differently from the citizens of that State. She opposed inclusion of the article in the enumeration in article 4.
7. Mr. WHITLAM (Australia) observed that equality of all before the law would apply in territory under Australian jurisdiction even in time of war. He recognized, however, that countries closer to the area of actual hostilities might feel certain apprehensions on the subject. Therefore, since a strong feeling seemed to exist in the Commission regarding the danger of such a provision, he would abstain from voting on the question, even though in the eyes of his own Government it would be a legitimate one.
8. In reply to the CHAIRMAN, who asked whether in time of war the Australian Government would accord to resident enemy aliens exactly the same treatment it gave its own citizens, Mr. WHITLAM (Australia) declared that such aliens would have absolute equality before the law.

9. Mr. NISOT (Belgium) and Mr. LEROY BEAULIEU (France) considered it impossible to treat enemy aliens exactly as citizens in time of war.

10. Mr. ORIBE (Uruguay) felt that the attitude to be taken towards the enumeration of article 20 depended upon the way in which that article was interpreted. He did not interpret it as implying that identical treatment must necessarily be accorded to all. The preservation of equality before the law and of equal protection would not prevent a State from setting up special arrangements for certain groups in time of emergency. The meaning of the article, in his opinion, was that there must be no inequality in treatment of individuals; the law must be general in scope, covering categories and groups of persons. If that interpretation were accepted, there could be no objection to including article 20 in the enumeration. He recognized the weight of the objections raised by his colleagues, but he asked for further clarification of the exact meaning and scope of article 20. If sufficiently weighty reasons were adduced against the inclusion of the article, he would vote with the majority, but he had not yet heard such reasons.

11. Mr. LEROY BEAULIEU (France) asked whether Uruguay, in time of war, would not find it necessary to put into effect certain special derogations from the article, in the case of enemy aliens. He cited in particular the question of the right of assembly, which was an important case in point.

12. Mr. ORIBE (Uruguay) maintained that such cases did not affect the principle of equality before the law. Article 20 was intended to prevent discrimination in isolated individual cases; it would not interfere with special legislation relating to certain categories of persons.

13. In the second reading, Mr. Oribe would vote against the entire second paragraph of article 20, since an almost identical text had now been included in article 2; but he would vote with the majority on the question under consideration. He merely wished to explain the reasons for his vote at the preceding meeting.

14. Mrs. MEHTA (India) supported the position taken by the delegations of the United States and France. During a war or in time of national emergency it might well become necessary for a State to draw certain distinctions between various categories of persons. She considered it undesirable to include article 20 in the enumeration in article 4.

15. Mr. MENDEZ (Philippines) cited a further example which, in his view, made the Uruguayan position untenable. He pointed out that in time of war an early measure often taken by Governments was the segregation of enemy aliens in detention camps. Such a measure constituted only temporary discrimination, but it was evident that while in such camps the persons in question could not avail themselves of the normal processes of law.

16. Mr. KYROU (Greece) observed that a new element had been introduced into the discussion; if article 20 were included in the enumeration, the Commission would be obliged to weaken the force of that article. He did not see how such a procedure could be reconciled with the purpose of the draft covenant.

17. Mr. JEVREMOVIC (Yugoslavia) remarked that the possible restrictions contemplated in connexion with war or national emergency would affect only such rights as freedom of movement, of assembly, of the press, etc. He pointed out, however, that in the articles dealing with those rights, provision had been made for possible restriction of those rights in time of war. Such restrictions were therefore already fully covered. The remaining rights of alien residents, however, must be maintained, even in time of war, or rather, particularly at such a time. He could see no danger inherent in the inclusion of article 20 in the enumeration given in article 4, and would favour its inclusion. He pointed out that otherwise the danger existed that States might choose to act with unwarranted harshness toward certain minorities which they suspected of having close ties with the enemy.

18. Miss BOWIE (United Kingdom) was not in favour of the inclusion of article 20 in the enumeration, since it was evident that no general agreement

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existed in the Commission regarding the exact interpretation of that article. It should be made clear, however, that during the second reading the Commission must determine the exact meaning and scope it wished to give to article 20.

19. The CHAIRMAN put to the vote the question whether article 20 should be included in the enumeration of articles given in paragraph 2 of article 4.

It was decided, by 8 votes to 2, with 3 abstentions, that article 20 should not be included in the enumeration.

20. The CHAIRMAN then invited discussion of the question whether article 9 should be included in the enumeration. She recalled that the French delegation had expressed a desire for more time to consider the question, and that the United States delegation had proposed the inclusion of paragraph 5 only of the article. Speaking as the representative of the United States of America, she considered it obvious that no Government would be in a position to guarantee that in time of war it would not derogate from the provisions of article 9. The provisions of that article dealing with arrest, bail, compensation etc., would not apply to prisoners of war or enemy aliens. Moreover, the treatment of such persons was regulated by new or existing conventions; the Commission could not rewrite those conventions in its draft covenant, nor could it ignore them. She therefore did not favour the inclusion of article 9 in the enumeration.

21. Mr. LEROY BEAULIEU (France) was particularly opposed to the inclusion of paragraph 5 of article 9, from which any country in time of war would be forced to derogate. His delegation was willing to withdraw its proposal for inclusion of article 9 in the enumeration.

22. Mr. NISOT (Belgium) opposed the inclusion of article 9.

23. Mr. LEROY BEAULIEU (France) referred to the phrase "public disaster" in the first line of article 4. He felt that that phrase might be the origin

of his delegation's objection to the inclusion of paragraph 5 of article 9. If the public disaster in question were not a war or an invasion, but rather an event such as an earthquake, the rights referred to should not be suspended. The phrase "public disaster" might be interpreted in various ways, with the result that basic human rights might be suspended in connexion with a relatively minor event.

24. Mr. VALLENZUELA (Chile) pointed out to the French representative that in his country an earthquake often constituted a major public disaster, requiring stringent measures on the part of the Government, and sometimes martial law, to avert public panic and mob rule.

25. Mr. LEROY BEAULIEU (France) thanked the representative of Chile for his observation, which he hoped would be noted by the Commission. Such comments would help to prevent the invoking of article 4 in connexion with minor cases.

26. The CHAIRMAN observed that since the French delegation had withdrawn its proposal for the inclusion of article 9 in the enumeration given in article 2, it would not be necessary to vote on the question.

27. The Chairman then put to the vote paragraph 2 of article 4 as amended to read: "No derogation from articles 5, 6, 8 (paragraphs 1 and 2), 10, 14, 15 and 16 can be made under this provision. No derogation which is otherwise incompatible with international law may be made by a State under this provision."

28. Mr. MALIK (Lebanon) requested a roll-call vote.

A vote was taken by roll-call.

In favour: Australia, Denmark, Egypt, France, Greece, India, Lebanon, Philippines, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia.

Against: None.

Abstaining: Belgium, Chile, Uruguay.

Paragraph 2 of article 4, as amended, was adopted by 11 votes to none, with 3 abstentions.

29. The CHAIRMAN then put to the vote article 4 as a whole, as amended.
Article 4 as amended was adopted by 12 votes to none, with 2 abstentions.

30. Mr. VALENZUELA (Chile) explained that while his delegation had originally intended to vote against the article, he had abstained out of respect for those Governments which felt that it was practical and applicable.

31. Mr. WEITLAM (Australia) had abstained because he was not satisfied with paragraph 1 of the article.

32. Mr. ORIBE (Uruguay) wished to explain that according to his interpretation, the article in no way implied that the constitutional limits upon the powers of Governments during an emergency would be derogated.

Article 23

33. The CHAIRMAN, speaking as the representative of the United States of America, explained her delegation's suggested amendment to article 23 (E/CN.4/365, page 60). The United States delegation felt that fifteen was a reasonable number of ratifications to require before the covenant could enter into force. If too small a number were required, the States whose ratifications brought the covenant into force might be those which had unnecessarily high standards, or conversely, those which assumed treaty obligations too lightly; on the other hand, if the number required were too large, an excessive length of time might elapse before the covenant could be put into effect. Her delegation could not endorse the French amendment to the effect that the ratifying States should include all the permanent members of the Security Council.

34. Miss BOWIE (United Kingdom) supported the United States amendment, which she considered a reasonable compromise. She shared the view of the United States representative concerning the French amendment, but asked if the Commission might hear the views of the French representative on the subject.

35. Mr. CASSIN (France) explained that there was an error in the text; his delegation had not proposed that all the permanent members of the Security Council should be required to ratify the covenant, but only "the majority of" those members. During the discussion of the draft covenant at the Commission's preceding session, his delegation had favoured requiring ratification by a two-thirds majority of the General Assembly, but it now advocated ratification by a simple majority only. A simple majority would be required for the adoption of the draft covenant by the General Assembly, and he did not think that the difference between the number of States voting for adoption and the number of States ratifying would be appreciable. As regards the United States proposal, he felt that the number of fifteen was too small. The entire fate of the draft covenant was involved; it would have no value or importance in the eyes of the world, nor could it, in all probability, even command the necessary budgetary funds, unless it were ratified by at least half the Member States of the United Nations.

36. Mr. NISOT (Belgium) proposed the deletion of the words "signature or" in the first line of the article; he felt that it was sufficient to refer to accession without also providing for signature and subsequent ratification.

37. Mr. MENDEZ (Philippines) proposed the deletion of the words "to which an invitation has been extended by the General Assembly", in paragraph 1. In his opinion, the covenant should be open for accession by any Member or non-Member State.

38. Mr. MALIK (Lebanon) thought that fifteen was a reasonable number under the circumstances, and would therefore support the United States amendment.

39. In reply to the representative of France, he remarked that not all the States which voted for the adoption of the covenant in the General Assembly would necessarily sign and ratify it. The Convention on Genocide had been adopted unanimously, but it was not yet in force since not all of the twenty ratifications required had been deposited.

40. There was a possibility, though by no means a probability, that the majority of the fifteen States whose ratification of the covenant was to bring about its entry into force would be non-members of the United Nations. To avoid that eventuality, he thought it preferable that the second part of the first sentence of paragraph 2 should read "...as soon as fifteen States, of which at least two-thirds are Members of the United Nations....". He did not, however, make a formal proposal to that effect.

41. Mr. KYROU (Greece) agreed that the possibility mentioned by the representative of Lebanon should be guarded against. Many of the covenant's provisions were linked to obligations under the Charter; those obligations obviously did not carry the same force for non-member States as for Members of the United Nations. He had understood the United States amendment to refer to Member States only.

42. The CHAIRMAN, speaking as the representative of the United States, said that under her delegation's proposal, ratification by any fifteen States willing to assume the responsibilities of the covenant would be sufficient to bring the latter into being. She had no objection to the Lebanese representative's suggestion, but thought it superfluous because the eventuality contemplated by him was a most unlikely one. Her delegation would support the Philippine amendment.

43. Mr. VALENZUELA (Chile) agreed with the Belgian representative's suggestion that signature of the covenant should be eliminated. He agreed with the representative of Lebanon that the ratifications required for the entry into force of the covenant should predominantly or even exclusively come from Members of the United Nations. He was, however, unable to accept the Philippine representative's view that non-member States should be permitted to accede to the covenant without the General Assembly's invitation. Among the non-member States of the United Nations there were some which, in the exercise of their domestic jurisdiction, signally failed to observe the most rudimentary human rights and fundamental freedoms. The provision for an invitation to be extended to non-member States prior to their accession would give Members the opportunity to prevent any attempt by such States to become parties to the covenant in an insincere or frivolous spirit.

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44. As regards the French amendments, he pointed out that ratification by a majority of member States would be difficult to obtain and would postpone the covenant's entry into force for too long a period. The United States proposal was less ambitious and therefore preferable. He strongly opposed the French proposal regarding the majority of the permanent members of the Security Council; its adoption would mean that failure on the part of 3 States to accede to the convention would prevent its coming into force even if the other fifty-six Members of the Organization were prepared to ratify it. In a sense, therefore, the provision would make the covenant subject to the right of veto, the existence of which many delegations deplored even in its present scope of application, restricted as it was to the Security Council itself.

45. Mr. KYROU (Greece) said that he would vote in favour of the French amendment. Replying to the representative of Chile, he said that considerations underlying the proposal regarding the permanent members of the Security Council was not based on any undue deference to the political power of those States but, rather, on the fact that they represented a very large part of the world's population.

46. Mr. NISOT (Belgium) supported the amendment proposed by the representative of the Philippines. He suggested that paragraph (1) should read as follows:

"This Covenant shall be open for the accession of States."

47. Mrs. MEHTA (India) said that her delegation had always maintained that the covenant should be a United Nations instrument and not simply an agreement adhered to by a limited number of States. She therefore felt that fifteen ratifications were not sufficient to bring it into force, particularly since the implementation clauses already adopted by the Commission provided that only the States parties to the covenant could protest against infractions. Accordingly, her delegation would abstain on article 23 and the amendments thereto.

48. Mr. MENDEZ (Philippines) disagreed with the position taken by the representative of Chile with regard to his amendment. It would be a historic

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moment and an occasion for rejoicing if any of the non-member States which had so far been remiss in the observance of human rights declared themselves willing to accede to the covenant. Such a voluntary act would bring those States within the compass of the law, and would therefore be of even greater value than accession by States which already recognized most of the rights set forth in the covenant.

49. Mr. MALIK (Lebanon) supported the Philippine representative's amendment. With regard to the Belgian proposal for the elimination of the signature procedure, he recalled that the present text had been introduced on the basis of a suggestion by the Secretariat; it would be desirable, therefore, if the views of the representative of the Legal Department could be heard before a decision was taken on that point.

50. He disagreed with the representatives of France and Greece on the question of the permanent members. It would be dangerous to link the observance of human rights with problems of security. The permanent members of the Security Council had primary responsibility in the latter field, but it would be quite wrong to assume that they must play a similar part in matters of human rights. The argument based on the size of the populations of those States was invalid; India, which was not a permanent member of the Security Council, had a population larger than those of France, the United States and the United Kingdom put together.

51. Mr. ORIBE (Uruguay) was prepared to accept the United States amendment, and agreed with previous speakers that the number of votes cast in favour of the covenant in the General Assembly need not be taken as an indication of the number of ratifications which would be deposited in the foreseeable future.

52. He was satisfied with the present text of paragraph 1, but would be prepared to consider the Belgian amendment thereto subject to a statement by the representative of the Secretariat. The provision for invitations to be extended by the General Assembly to non-member States meant that, in considering whether such a State should be permitted to accede to the covenant, the Assembly would take into consideration any previous resolutions it might have adopted in respect of that State. There was therefore no danger that invitations would

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be withheld without good reasons. Lastly, he was against the Lebanese representative's suggestion: the importance of the covenant was no universal that no unnecessary restrictions should be permitted to stand in the way of its entry into force. Moreover, the majority of countries which were not yet Members of the United Nations had already applied for membership; the fact that they did not yet belong to the Organization was in most cases not their own fault but that of the procedural regulations of the United Nations.

53. Mr. MALIK (Lebanon) pointed out that his suggestion did not represent a formal proposal.

54. Mr. CASSIN (France) endorsed the Belgian amendment to paragraph 1, and agreed with previous speakers that non-members should be given every opportunity to accede to the covenant. The fact that some of those States might not be qualified to become parties to the covenant should not stand in the way of the accession of others. The fact that a non-member State had ratified the covenant would, moreover, constitute a favourable recommendation for its admission to membership.

55. He emphasized that his delegation's proposal regarding the permanent ~~members~~ members of the Security Council was in no sense intended to make the entry into force of the covenant subject to the right of veto, as the representative of Chile had suggested, but was wholly motivated by concern that the covenant should be truly effective. Unless a majority of the Great Powers ratified the covenant, thus relinquishing a measure of their national sovereignty in the sphere of human rights, there was little hope that the covenant would ever carry very much weight. The French constitution provided for such laying down of sovereign rights on the basis of reciprocity: but reciprocity was an essential prerequisite, since no country could be expected to yield its sovereignty if others, equal to it in size and importance, failed to do so.

56. The tendency of the French delegation had always been to make the provisions of the covenant as widely acceptable as possible. Where the question of entry into force was concerned, however, it insisted that a large number of ratifications must be stipulated, and that that number must include the majority of the most important nations of the world.

/57. Mr. SCHACHTER

57. Mr. SCHACHTER (Secretariat), referring to the Belgian amendment to paragraph 1, said that the traditional method employed with regard to international conventions provided for signature and ratification by the original parties and for accession by States which subsequently decided to accept the convention. It was true, however, that certain recent treaties provided for accession only: that was so, for example, in the case of the General Act on the Pacific Settlement of International Disputes adopted by the League of Nations and, later, by the United Nations, and of the General Convention on Privileges and Immunities of the United Nations. Thus the procedure of accession alone while not frequently employed, was legally permissible.

58. The real question presented was whether signature might be considered as having value. The act of signature as such did not have legal force: it was essentially a ceremonial and symbolic action having a certain psychological value but becoming legally effective only upon ratification. In some cases, where it was deemed to serve no useful purpose, signature had been eliminated. It was for the Commission to consider whether the procedure of signature would, in the case of the covenant, have political or psychological utility in facilitating entry into force.

59. Mr. NISOT (Belgium) remarked that the signature procedure was justified when there were original parties to a convention. In the present case, that point did not arise, since the covenant had not been drafted by a diplomatic conference. The psychological value of the act of signature was open to doubt: States were too often prone to feel that they had fulfilled their moral obligation by signing a document, and did not go on to ratify it.

60. Mr. SORENSEN (Denmark) agreed with the Belgian representative that adoption by the General Assembly and subsequent accession by States was sufficient.

61. Regarding the Philippine representative's amendment, he recalled that the text in question had been discussed in the preceding year and had been approved as being in conformity with the corresponding provisions of other United Nations conventions. He felt that no departure from the normal procedure should be made, and would therefore vote against the Philippine amendment.

62. The purpose of the covenant was to create international machinery for the implementation of human rights. Such machinery derived value from the authority behind it: unless a considerable number of States were prepared to accede to the covenant, that authority would be lacking, and it could hardly be hoped that the covenant would effectively promote the observance of human rights on an international scale. In particular, it would be unrealistic to suppose that the covenant could become a real force unless at least three out of the five great Powers which were permanent members of the Security Council were parties to it. Those considerations led him to accept both parts of the French proposal.

63. Mr. MENDEZ (Philippines) thought that the Danish representative's objection to his amendment, based as it was on precedent alone, was not convincing. The Commission must adapt its actions to the vital problems of the period; consequently, it should not close the door to Governments willing to accede to the covenant.

64. Regarding the Belgian amendment to paragraph 1, he remarked that the act of signature symbolized the assumption of a contractual obligation; it should not therefore be lightly eliminated. However, he favoured any proposal intended to expedite the entry into force of the covenant, and would not oppose the amendment.

65. The CHAIRMAN, speaking as the representative of the United States of America, said it would be preferable to retain the signature procedure. Public opinion attached great value to the actual ceremony of signature, and its value in encouraging others to follow suit should not be overlooked.

66. Mr. RAMADAN (Egypt) requested that the French amendment should be voted upon in parts. He would support the proposal regarding the majority of Members of the United Nations, but not that regarding the majority of the permanent members of the Security Council.

67. Mr. VALENZUELA (Chile) remarked that the arguments advanced in defence of the second part of the French proposal had, in the course of the discussion,

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been reduced to a single one, namely that the importance of the covenant made it essential that it should be ratified by the majority of States having primary responsibility in political affairs.

68. Those of the permanent members of the Council who were present in the Commission were known as champions of human rights. To stipulate that they should be among the first to ratify the covenant was to suggest that there was some doubt regarding their willingness to do so. If, on the other hand, no such doubt was entertained, the provision was surely superfluous. Moreover, it would create a most dangerous precedent if the right of veto were extended to important decisions of the United Nations outside the Security Council.

69. Mr. SORENSEN (Denmark), in reply to the representative of the Philippines, said that the question raised by the latter's amendment had been discussed at length at previous sessions; that was why he had advanced no new arguments against it.

70. In reply to the representative of Chile, he said that the point at issue was how soon the covenant should come into force. The entire structure of the United Nations was, in a sense, based on the political authority of the permanent members of the Security Council. The other Members of the United Nations were free to conclude agreements on human rights between themselves, but it was difficult to contemplate a United Nations covenant on human rights to which at least three of the great Powers had not acceded.

71. Mr. KYROU (Greece) remarked that the French amendment did not discriminate in favour of the great Powers but was merely intended to remind them of their duties and responsibilities.

72. Miss BOWIE (United Kingdom) said she would support the Belgian amendment to paragraph 1. Her delegation's proposal that accession should be accompanied by a solemn declaration had been rejected by the Commission; instead, a provision had been adopted to the effect that States should bring their

laws into conformity with the provisions of the covenant "within a reasonable time". The process of accession should not be lengthened still further by allowing for a period between signature and ratification; the act of signature could well be eliminated.

73. In reply to the representative of the Philippines, she remarked that the Members of the United Nations had a reasonably clear idea of conditions prevailing in non-member countries; invitation to accede to the covenant would not be withheld without good reason. The desire to receive such an invitation might spur the public opinion in non-member countries to urge for the appropriate changes in their domestic laws.

74. She was opposed to the French proposal regarding the majority of the permanent members of the Security Council; no suggestion of different degrees of political importance should be allowed to enter into the issue. For certain practical reasons, some of the permanent members might not be in a position immediately to ratify the covenant: that would be so, for instance, if the colonial and federal clauses were omitted from the text. Those considerations should not influence the covenant's entry into force. The United Kingdom delegation would support the United States amendment to paragraph 2.

75. Mr. MALIK (Lebanon) thought it unlikely that accession to the covenant would be unduly retarded if the procedure of signature were adopted. On the contrary, he agreed with the United States representative that the ceremonial significance of the act might stimulate nations to ratify the covenant. The issue was not a crucial one but he thought the balance of the argument favoured retention of the procedure.

76. Turning to the French amendment, he thought it was clear that the five great Powers bore the major responsibility for maintaining peace and security in the world. To link the question of human rights with that issue, however, was theoretically unsound. He agreed with the Danish representative that the covenant would be more effective if it had the support of the permanent members of the Security Council. It was manifestly desirable that all nations should attempt to promote the enjoyment of human rights. He did not feel, however, that the achievement of that objective should be made ^{dependent} ~~dependent~~ on acceptance

of the covenant by three permanent members of the Security Council. As the United Kingdom representative had pointed out, the federal and colonial clauses would make it difficult for some of the great Powers immediately to accede to the covenant. Moreover, the French amendment would not encourage the permanent members to hasten their accession to the covenant. In view of the current world situation, the French amendment might mean that one permanent member of the Security Council could veto the covenant for inasmuch as two of the permanent members were not likely to accede to the covenant at the time, any one of the other members could prevent the covenant from coming into force. For those reasons he thought that the French amendment was more radical than it appeared at first glance and that it should be rejected.

77. Mr. WHITLAM (Australia) thought it would be useful to permit States to sign the covenant. A formal signature would have great weight as a moral commitment which in the case of the covenant could be very valuable in spite of the fact that a short delay in ratification might result. As the United States representative had said, the ceremony of signature might encourage other States to sign the covenant.

78. He supported the original draft of article 23. It would be advisable for the United Nations to exercise some control over the selection of non-member States who would be invited to adhere to the covenant and he therefore could not support the Belgian amendment.

79. He was not opposed to the United States amendment to require that fifteen States should have ratified the covenant before it could come into force, but he thought it would be more effective if the requirement were raised to twenty.

80. He appreciated the reasons which had led the French delegation to put forward its amendment but he could not accept that text. The covenant was not an ordinary convention but a new step in international relations. Although only a small beginning, the States signing the covenant were helping to promote human rights and to build a more compact system of inter-State relations. In the circumstances it did not seem wise to require that the entry into force of the covenant should be contingent on ratification by a majority of the Member States.

/81. Mr. MENDEZ

81. Mr. MENDEZ (Philippines) thought States should be encouraged to accede to the covenant and he felt that signature was an important ceremony which could help materially to achieve that end.

82. He opposed the French amendment making the entry into force of the covenant dependant on ratification by a majority of the permanent members of the Security Council because of the possible political implications of the amendment.

83. Mr. CHANG (China) thought the French amendment was ill-advised. The permanent members of the Security Council were an important factor which vitally affected the functioning of the United Nations. The French amendment however introduced a new concept, namely the requirement of the support of a majority of those States, which raised very serious questions and should not be adopted.

84. Mr. CASSIN (France) pointed out that not all decisions on questions within the competence of the Security Council required the unanimous support of the permanent members. The French amendment therefore would not be as restrictive as the Chinese representative might fear.

85. Originally some nations had favoured the incorporation of a brief declaration on human rights in the Charter. That procedure might have been feasible but he believed that the procedure which had finally been adopted, namely that of drafting the Declaration and the covenant as instruments separate from the Charter would undoubtedly achieve the most satisfactory results, especially if they were accepted by a majority of the Member States.

86. It seemed obvious that peace and security were closely related to human rights. Indeed, the Charter itself linked those two concepts in its Preamble. It should be borne in mind that Germany's violations of fundamental rights at home and later abroad, had been one of the fundamental causes of the Second World War which had culminated in the creation of the United Nations.

87. The French delegation was attempting to find the best method to achieve the purposes of the Charter. If the covenant came into force after having been ratified by a very limited number of States it might not satisfy the hopes and aspirations of the many States who had signed the Charter.

88. Mr. CRIBE (Uruguay) thought that from the legal point of view the Belgian amendment was acceptable but the fundamental issue before the Commission was a question of policy. For some States the problem was of no great importance but for those nations whose system of government was based on a separation of powers the matter was of vital concern. The procedure of signature might assist the executive branch of the Government in obtaining the necessary authorisation to ratify the covenant and therefore the traditional system of signature and accession should be maintained.

89. Mr. JEVREMOVIC (Yugoslavia) supported the considerations which had moved the Philippine representative to put forward his amendment to paragraph 1. The Commission should facilitate accession to the covenant by non-member States.

90. He therefore proposed that the last part of paragraph 1 should be amended to read as follows: "The right of accession shall be granted also to States not members of the United Nations, subject to the right of the General Assembly to exclude a particular non-member State where there exist reasonable grounds for it."

91. With regard to paragraph 2 he formally moved that the entry into force of the covenant should be contingent on ratification by twenty States.

92. In conclusion he said that he would not oppose the Belgian amendment although he approved the original text, and that he was opposed to the French amendment.

93. Mr. WHITLAM (Australia) supported the Yugoslav amendment that entry into force should be contingent on ratification by twenty States. If that text were rejected, he would support the United States amendment.

94. The CHAIRMAN put to the vote the Belgian amendment to delete the words "signature or" from paragraph 1 of article 23.

That amendment was rejected by 7 votes to 6, with 2 abstentions.

95. Mr. MENDEZ (Philippines) withdrew his amendment in favour of the Belgian text.

/96. The CHAIRMAN

96. The CHAIRMAN put to the vote the Belgian text of paragraph 1, reading as follows: "This covenant shall be open for signature or accession on behalf of any State."

That amendment was rejected by 8 votes to 6, with 1 abstention.

97. Mr. NISOT (Belgium) wondered whether under the terms of the Yugoslav amendment accession would not be subject to a resolatory condition. He was not sure that such a procedure would be advisable.

98. In reply to Mr. WHITTAM (Australia), Mr. JEVREMOVIC (Yugoslavia) explained that according to his amendment a State could ask to accede to the covenant, whereupon the General Assembly could either approve or reject the request.

99. The CHAIRMAN put the Yugoslav amendment (E/CN.4/365) to the vote.
The Yugoslav amendment was rejected by 11 votes to 2, with 2 abstentions.

100. The CHAIRMAN put to the vote the first part of paragraph 1, reading: "This covenant shall be open for signature or accession on behalf of any State Member of the United Nations or of any non-member State."
That text was adopted unanimously.

101. The CHAIRMAN put to the vote the last part of paragraph 1, reading: "to which an invitation has been extended by the General Assembly."
That text was adopted by 8 votes to 3, with 4 abstentions.

102. The CHAIRMAN put to the vote the whole of paragraph 1.
Paragraph 1 as a whole was adopted unanimously.

103. The CHAIRMAN put to the vote the first part of the French amendment to insert the words "a majority of the Members of the United Nations" after the words "and as soon as" in the fourth line of paragraph 2 (E/CN.4/365).
That amendment was rejected by 8 votes to 6, with 1 abstention.

104. Mr. CASSIN (France) withdrew the second part of the French amendment in view of the result of the vote on the first part.

105. The CHAIRMAN put to the vote the Yugoslav amendment to insert the word "20" after the words "and as soon as" in the fourth line of paragraph 2.
That amendment was adopted by 7 votes to 4, with 4 abstentions.

106. The CHAIRMAN put to the vote the whole of paragraph 2, as amended.
The whole of paragraph 2, as amended, was adopted by 13 votes to none, with 2 abstentions.

107. Mr. ORTIZ (Uruguay) suggested that the word "signed" should be inserted before the words "ratified or acceded" in the third line of paragraph 3.

108. The CHAIRMAN put the Uruguayan amendment to the vote.
The Uruguayan amendment was adopted by 12 votes to none, with 3 abstentions.

109. The CHAIRMAN put to the vote the whole of paragraph 3, as amended.
The whole of paragraph 3, as amended, was adopted by 14 votes to none, with 1 abstention.

110. The CHAIRMAN put to the vote the whole of article 23 as amended.
The whole of article 23, as amended, was adopted by 13 votes to none, with 2 abstentions.

The meeting rose at 1 p.m.